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             UNITED STATES DISTRICT COURT
           FOR THE NORTHERN DISTRICT OF OHIO
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                  EASTERN DIVISION
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                              MDL No. 2804
    IN RE: NATIONAL
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    PRESCRIPTION OPIATE
    LITIGATION
                              Case No.
6
                              1:17-MD-2804
    *******
7
    THIS DOCUMENT RELATES TO Hon. Dan A. Polster
8
    ALL CASES
    *******
10
11
        HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
12
                CONFIDENTIALITY REVIEW
13
         VIDEOTAPED DEPOSITION OF CRAIG SCHIAVO
14
15
             Thursday, January 17th, 2019
                     8:06 a.m.
16
17
18
      Held At:
19
             Omni Hotel
20
             One West Exchange Street
21
             Providence, Rhode Island
22
23
    REPORTED BY:
    Maureen O'Connor Pollard, RMR, CLR, CSR
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PROCEEDINGS
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 3
               THE VIDEOGRAPHER: We are now on the
    record. My name is Robert Sweig, and I'm a
 4
    videographer for Golkow Litigation Services.
 5
 6
               Today's date is January 17, 2019, and
 7
    the time is 8:06 a.m.
 8
               This video deposition is being held in
 9
    Providence, Rhode Island in the matter of In Re
10
    National Prescription Opiate Litigation pending
11
    before the United States District Court for the
12
    Northern District of Ohio, Eastern Division.
13
               The deponent is Craig Schiavo.
14
               Counsel appearances will be as noted
15
    on the stenographic record.
16
               The court reporter is Maureen Pollard
    who will now swear in our witness.
17
18
19
                     CRAIG SCHIAVO,
    having been duly sworn, was examined and
20
21
    testified as follows:
22
               EXAMINATION
23
    BY MR. ELSNER:
24
              Good morning.
         Q.
```

- 1 A. Good morning.
- Q. My name is Mike Elsner, and I'm from
- 3 the law firm of Motley Rice, and I represent the
- 4 plaintiffs in these actions.
- 5 Can you please tell us your name?
- 6 A. My name is Craig Schiavo.
- 7 Q. When were you born?
- 8 A.
- 9 Q. So how old are you?
- 10 A. 36.
- 11 Q. 36.
- 12 And where do you live?
- 13 A. Medway, Massachusetts.
- 14 Q. And you graduated from Lasalle
- 15 University, is that right?
- 16 A. That's right.
- 17 Q. And that's in Philadelphia?
- 18 A. That's in Philadelphia.
- 19 Q. In 2004?
- 20 A. Yes.
- Q. Okay. Did you graduate with a degree?
- 22 A. Yes.
- Q. What is the degree?
- A. My major was business management.

- Q. Okay. Did you take any courses in
- pharmaceuticals or pharmacy?
- 3 A. Not that I recall.
- 4 Q. Before joining Henry Schein, did you
- 5 have any coursework or take any studies in DA
- 6 regulations?
- 7 A. Not that I recall.
- 8 Q. Okay. When did you join Henry Schein?
- 9 Was that your first job out of college?
- 10 A. I joined Henry Schein in June of 2004,
- and that was my first full-time job out of
- 12 college.
- 13 Q. Okay. And what were you hired to do?
- 14 A. When I started in 2004, I was doing
- 15 product recalls.
- 16 O. And what did that involve?
- 17 A. We would receive recalls or
- 18 withdrawals from manufacturers or distributors,
- 19 and my responsibility was to coordinate the --
- 20 making sure that our distribution centers put a
- 21 block on the product, and then if required
- whatever notifications needed to go to either
- our customers, or just coordinate the recall.
- Q. Okay. And Henry Schein is a wholesale

- 1 distributor of medical products and drugs, is
- 2 that right?
- A. That's part of their services, yes.
- 4 Q. What else do they do?
- 5 A. They distribute a lot of things.
- 6 Q. Okay. But they do distribute
- 7 controlled substances, is that right?
- A. At the time that I worked there, yes.
- 9 O. Okay. And did that include Schedule
- 10 II narcotics as well as Schedule III narcotics?
- MS. MILLER: Object to form.
- 12 A. Yes.
- 13 BY MR. ELSNER:
- 14 Q. And can you give us a description of
- 15 Henry Schein's customer base as it related to
- 16 the sale of controlled substances?
- 17 A. We distributed mainly to the
- 18 office-based practitioner from what I remember.
- 19 Q. Okay. So that would include medical
- 20 doctors in their offices, is that right?
- 21 A. Yes.
- 0. And dentists?
- A. I believe we distributed to dentists,
- 24 yes.

- 1 Q. And veterinary clinics?
- 2 A. For -- I don't think so the whole time
- 3 that I worked there, but at some point they did.
- 4 O. Okay. Did it include retail
- 5 pharmacies?
- A. For most of the time that I was there,
- 7 no. At the very end of my time with Henry
- 8 Schein I vaguely remember going or dealing with
- 9 a pharmacy, a few pharmacies.
- 10 Q. And would these be large retail
- 11 pharmacy chains like CVS or Walgreen's, or are
- we talking about smaller pharmacies?
- 13 A. To the best of my recollection, I
- 14 think it was just smaller pharmacies.
- Q. Okay. And how long did you perform
- 16 your job for Henry Schein in product recalls?
- 17 You started in June, 2004, and when did that
- 18 position end, and what was your next position
- 19 there?
- 20 A. I don't remember exactly how long I
- 21 was in the role. It might have been a couple
- years, two, two and a half years. And then
- after that my role was dealing with inspections
- 24 and controlled substances and suspicious order

- 1 monitoring.
- Q. Did you begin that roughly in 2007?
- 3 Does that sound about right?
- 4 A. I don't recall.
- 5 Q. Okay. How was it that you
- 6 transitioned from product recalls into
- 7 regulatory specialist related to DEA compliance?
- 8 MS. MILLER: Object to form.
- 9 A. Can you just repeat the question?
- 10 BY MR. ELSNER:
- 11 Q. Yes. Well, let me ask it a different
- 12 way.
- What was your title after you moved
- 14 from recall coordinator? What was your next
- 15 title at Henry Schein?
- 16 A. I don't remember the specific title.
- 0. Okay. But what were you responsible
- 18 for in your new position?
- 19 A. I think I was still supporting
- 20 recalls. And then when I first started the role
- 21 I don't remember exactly what my
- 22 responsibilities were.
- Q. Did it include any responsibilities
- 24 for DEA compliance with respect to controlled

- 1 substances?
- 2 A. When I first transitioned into the
- 3 role, I don't know what my responsibilities
- 4 were, but it was learning the new role, and part
- of that was around controlled substances and
- 6 inspections in our distribution centers.
- 7 Q. And as you evolved into that role
- 8 after the training period, then what were your
- 9 general responsibilities in that position?
- 10 A. Continued to be government
- inspections, training of some employees, and
- then compliance with controlled substances and
- 13 suspicious order monitoring.
- 14 O. How many -- did you have employees
- that worked for you in that position?
- 16 A. I had no direct reports.
- 17 Q. Okay. How large was the team that
- dealt with compliance related to controlled
- 19 substances at Henry Schein in that period?
- 20 A. I'm not sure -- I mean, a lot of
- 21 people had a part in the process. I don't know
- how many.
- Q. Were you involved in establishing
- 24 Henry Schein's suspicious order monitoring

- 1 program for controlled substances?
- MR. MONTMINY: Objection. Form,
- 3 outside the scope.
- 4 A. I was part of a team that worked on
- 5 suspicious order monitoring.
- 6 BY MR. ELSNER:
- 7 Q. How many people were in that team?
- A. Again, I don't recall how many. There
- 9 was a team of people. I can't remember
- 10 everyone.
- 11 Q. Less than ten? Less than five?
- 12 What's your best estimate?
- 13 A. Again, I don't recall. It wasn't just
- 14 compliance. There were other departments that
- were participating. I can't even give a good
- 16 guess on how many people.
- 17 Q. When did Henry Schein develop its
- 18 suspicious order monitoring system initially?
- MR. MONTMINY: Objection to form.
- 20 A. I'm not sure.
- 21 BY MR. ELSNER:
- Q. Was it in place in 2007 when you
- transitioned into that position, or was it
- 24 something that you developed in that position?

- 1 MR. MONTMINY: Objection. Form, asked
- 2 and answered.
- 3 A. I don't recall what the system was
- 4 prior to me going to that role.
- 5 BY MR. ELSNER:
- 6 O. Did it exist?
- 7 A. I don't recall.
- Q. At some point in time you became a
- 9 senior regulatory specialist at Henry Schein, is
- 10 that right?
- 11 A. I believe so.
- 12 Q. Okay. And was that in 2012?
- 13 A. I don't recall when that happened.
- Q. Was it shortly before you left Henry
- 15 Schein?
- 16 A. I'm not sure what you mean by
- "shortly," but I don't remember exactly when I
- went into that role, or got that title.
- 19 Q. How long did you serve in that role?
- 20 A. Again, I don't remember when I -- I
- 21 think that was a promotion. I don't remember
- when that happened.
- Q. Did your responsibilities change in
- 24 any way?

- 1 A. I don't remember.
- Q. Did you have direct reports?
- 3 A. I don't believe I ever had direct
- 4 reports at Henry Schein.
- 5 Q. I want to show you something on the
- 6 screen, I didn't print it for you, but it might
- 7 help your recollection with some of the dates,
- 8 if that's okay.
- 9 A. Sure.
- MS. MILLER: Mike, do you have hard
- 11 copies?
- MR. ELSNER: I'll have hard copies of
- 13 most everything else, but not this. This is his
- 14 LinkedIn page. I'm going to show it to him and
- see if it helps him remember some of the dates.
- MS. MILLER: Craig, are you able to --
- MR. ELSNER: There's a screen, but
- 18 it's not there yet.
- 19 Can we just go off the record for a
- 20 quick minute while we get this? Sorry.
- THE VIDEOGRAPHER: We're going off the
- 22 record at 8:17 a.m.
- 23 (Pause.)
- THE VIDEOGRAPHER: We're back on the

- 1 record at 8:18 a.m.
- 2 (Whereupon, CVS-Schiavo-1 was marked
- for identification.)
- 4 BY MR. ELSNER:
- 5 Q. Mr. Schiavo, we've placed before you
- 6 what we're going to mark as Exhibit 1. Is this
- 7 a copy of your LinkedIn page?
- A. It looks to be my LinkedIn page.
- 9 Q. That's your picture?
- 10 A. That is my picture.
- 11 Q. Okay. Did you draft -- did you create
- 12 your own LinkedIn page?
- 13 A. Yes.
- Q. Okay. Let's move down to the portion
- that deals with your work experience at Henry
- 16 Schein. I think it starts on the bottom of the
- 17 first page there. It says that you worked there
- 18 for roughly eight years. Is that accurate?
- 19 A. That seems about right.
- Q. Okay. When did you create your
- 21 LinkedIn page?
- 22 A. I don't remember when I created it.
- Q. It says here that your work for Henry
- 24 Schein was in Greenville, South Carolina. Is

- 1 that where you were working when you worked for
- 2 them?
- A. Part of the time that I worked for
- 4 them it was in Greenville.
- 5 Q. What period of time did you spend in
- 6 Greenville?
- 7 A. It was my last year with the company.
- 8 Q. Your last year.
- 9 Where were you before that?
- 10 A. I was in Melville, Long Island.
- 11 Q. In New York?
- 12 A. In New York.
- 13 Q. Okay. What year did you move to
- 14 Greenville?
- 15 A. I believe it was 2011.
- 16 Q. Okay. On the second page of your
- 17 LinkedIn page it lists -- the top of the second
- 18 page, it says "Senior Regulatory Specialist -
- 19 DEA Compliance," and it's listed there from June
- of 2004 to August of 2012, if I can read that
- 21 correctly. Is that accurate?
- 22 A. That's what it says there. I started
- in June of 2004. I wasn't handling anything
- 24 with DEA compliance that I recall in 2004.

- Q. Okay. The first time you started
- 2 handling DEA compliance, was that 2007?
- A. I don't remember the exact year.
- 4 Q. If we go back to the first page, I'm
- 5 sorry we're fumbling through this a little bit,
- 6 there's a summary of your work experience, and
- 7 it lists on the bottom that you were a
- 8 regulatory associate from 2004 to 2007. Does
- 9 that sound right?
- 10 A. That seems about right. I don't
- 11 specifically recall those dates, but...
- 12 Q. When you drafted your LinkedIn page,
- did you make an effort to make sure it was
- 14 accurate?
- MS. MILLER: Object to form.
- 16 A. I don't recall doing anything to
- intentionally not be accurate, but I don't spend
- 18 much time on LinkedIn or use LinkedIn very
- 19 often.
- 20 BY MR. ELSNER:
- Q. Okay. Above that you listed
- 22 "Regulatory Specialist DEA Compliance" from
- 23 2007 to 2012. Does that -- is that accurate?
- A. That's what it says there. Again, I

- 1 don't specifically recall the dates where I
- 2 started the position, but that's what it says.
- Q. Okay. And then in 2012 you were a
- 4 senior regulatory specialist for DEA compliance,
- 5 is that right?
- 6 A. I know in 2012 I was a senior
- 7 regulatory specialist.
- 8 Q. Okay. And Henry Schein hired the
- 9 Buzzeo Group as consultants to work on the
- 10 suspicious order monitoring program for
- 11 controlled substances, is that right?
- MR. MONTMINY: Objection. Outside the
- 13 scope.
- 14 A. I don't recall exactly why we hired
- 15 Buzzeo, if it was there specifically for SOM or
- 16 just general compliance.
- 17 BY MR. ELSNER:
- Q. Do you know when Henry Schein hired
- 19 Buzzeo?
- 20 A. I don't recall.
- O. Do you know what Buzzeo -- what was
- 22 your understanding of what work Buzzeo was doing
- 23 for Henry Schein?
- MR. MONTMINY: Objection. Outside the

- 1 scope.
- A. We worked with Buzzeo on general DEA
- 3 compliance issues, as I remember it.
- 4 BY MR. ELSNER:
- 5 O. Such as what?
- 6 A. Inspections, SOM, anything that had to
- 7 do with DEA compliance.
- Q. Who specifically at Buzzeo did you
- 9 work with?
- 10 A. There were a number of people. I
- 11 can't recall everyone that I worked with at
- 12 Buzzeo.
- 0. You said that Buzzeo did work for
- 14 Henry Schein on their SOM program. What type of
- work did they do?
- MR. MONTMINY: Objection. Outside the
- 17 scope.
- 18 A. So I recall working with Buzzeo on --
- 19 I mean, I used to speak to Buzzeo for guidance
- on lots of topics, not specific to SOM, but they
- 21 helped us develop the newer system, I guess,
- 22 that I was a part of. That was part of the role
- 23 that they played.
- 24 BY MR. ELSNER:

- 1 Q. The newer system is a newer suspicious
- 2 order monitoring system for controlled
- 3 substances, is that what you mean?
- A. Yeah, it was either the newer or
- 5 enhanced system that was being worked on.
- 6 Q. Were they -- what was --
- 7 A. The enhanced system.
- 8 Q. The enhanced system.
- 9 Did Buzzeo assist Henry Schein in
- developing an algorithm for its suspicious order
- 11 monitoring program?
- MR. MONTMINY: Objection. Outside the
- 13 scope.
- 14 A. I believe so.
- 15 BY MR. ELSNER:
- 16 Q. And did Buzzeo create training
- 17 materials and train employees at Henry Schein on
- 18 the suspicious order monitoring system?
- 19 A. What exactly do you mean by
- 20 "training"?
- Q. Well, did they develop training
- 22 materials for Henry Schein to train their
- employees on the suspicious order monitoring
- 24 system for controlled substances?

- 1 A. I don't recall any specific
- 2 documentation or training materials.
- Q. Did they come into Henry Schein and
- 4 offer training, seminars, or sessions with
- 5 employees at Henry Schein?
- 6 MR. MONTMINY: Objection. Outside the
- 7 scope.
- 8 A. I recall at least one training.
- 9 BY MR. ELSNER:
- 10 Q. Who did the training, do you recall?
- 11 A. I don't recall who it was.
- 12 Q. What work were you doing on the
- 13 suspicious order monitoring system at Henry
- 14 Schein for controlled substances?
- 15 A. At which point are you referring to?
- Q. Walk me through from 2007 to 2012.
- 17 A. I know in 2007, if that's when I
- 18 transitioned based on my LinkedIn page, I was
- 19 probably just learning. And then by the end in
- 20 2012, my role was again -- specifically to SOM?
- 21 O. Yes.
- 22 A. I was conducting site visits on
- 23 customers and reviewing orders that were flagged
- 24 by the SOM system.

- 1 Q. So as I understand it, the suspicious
- order monitoring system would use an algorithm
- 3 to identify potentially suspicious orders, is
- 4 that generally accurate?
- 5 MS. MILLER: Object to form.
- 6 A. The suspicious order monitoring system
- 7 was a piece of the process used to identify
- 8 orders of interest, but that wasn't the only way
- 9 to identify orders.
- 10 BY MR. ELSNER:
- 11 Q. And once orders were identified of
- 12 interest, did you have responsibility for
- 13 reviewing those orders to determine whether they
- were potentially suspicious of diversion or not?
- MS. MILLER: Object to form.
- 16 A. That was part of my responsibilities.
- 17 BY MR. ELSNER:
- 18 Q. What would you do to do that when you
- 19 worked at Henry Schein?
- 20 A. It all depended on the order. There
- 21 were tons of approaches to take to review an
- 22 order.
- Q. Do you know what the criteria that
- 24 Henry Schein was using at that time, what its

- 1 algorithm was pulling orders for to determine
- 2 whether they should be -- whether they should
- 3 have an enhanced review?
- 4 MR. MONTMINY: Objection. Form,
- 5 outside the scope.
- 6 A. The specific logic used by the
- 7 algorithm, I didn't know that. I knew at a high
- 8 level the system was looking for orders of
- 9 unusual size, buying pattern, or frequency.
- 10 BY MR. ELSNER:
- 11 Q. When they identified those orders,
- what were the tools that you used to determine
- 13 whether an order was -- should be further
- 14 investigated?
- MS. MILLER: Object to form.
- 16 A. There is no limitation on what I could
- 17 use. Whatever information that was available to
- 18 me or that I could use, I did.
- 19 BY MR. ELSNER:
- Q. What information was available to you?
- 21 Were there databases that you could pull upon,
- or was there order history you could review?
- What were the items you could look at to
- 24 determine whether a particular order was worthy

- 1 of enhanced investigation?
- MR. MONTMINY: Objection. Form,
- 3 outside the scope.
- 4 A. I can't remember everything that I
- 5 used. Some of the things you mentioned were
- 6 data sources that we used. It also included
- 7 phone calls or site visits or internet searches.
- 8 I mean, there were -- any resource that I could
- 9 use, I would -- was available.
- 10 BY MR. ELSNER:
- 11 Q. Did you have databases that you could
- 12 pull upon, outside databases that you could pull
- 13 upon to search for information about particular
- 14 physicians?
- MS. MILLER: Object to form.
- 16 A. I'm not sure what you're referring to
- 17 by outside databases.
- 18 BY MR. ELSNER:
- 19 Q. Well, you mentioned that you could
- 20 access information on the internet about people,
- 21 and you do research and internet searches. So
- 22 what type of searches are we talking about?
- 23 A. There were lots of searches. One
- 24 example would be if it was a doctor's office, I

- 1 would just Google the doctor office name.
- Q. Okay. Anything else?
- A. There are lots of things. Anything
- 4 that I would see or could research, I would do.
- 5 Q. I appreciate there are lots of things,
- 6 but I need to get a more specific sense of what
- you actually did.
- 8 So did you look to determine whether
- 9 they had a valid DEA license?
- MS. MILLER: Object to form.
- 11 A. That specifically was not my role.
- 12 BY MR. ELSNER:
- Q. Okay. Did you look to see whether
- they had a criminal background, or a criminal
- 15 history?
- MS. MILLER: Object to form.
- 17 A. I don't recall ever specifically
- 18 looking for that.
- 19 BY MR. ELSNER:
- Q. What determined whether you would make
- 21 a site visit to a particular doctor's office or
- dentist's office or something else like that?
- MS. MILLER: Object to form.
- 24 A. I don't think there was one criteria

- 1 that when I saw it I said, this needs a site
- 2 visit.
- 3 BY MR. ELSNER:
- 4 Q. Well, you didn't visit every doctor's
- office that was identified by the suspicious
- 6 order monitoring system, right?
- 7 A. I don't believe so.
- 8 Q. Okay. So what were among the criteria
- 9 you would use to determine whether you were
- 10 going to conduct a site visit?
- MR. MONTMINY: Object to form.
- 12 Outside the scope.
- 13 A. There's lots of situations that would
- 14 cause me to do a site -- there is not one or
- 15 two, but there were lots.
- 16 BY MR. ELSNER:
- 17 Q. Well, give us some examples.
- 18 A. If there was -- if I felt that an
- order was significantly higher than someone's
- 20 previous order.
- Q. What would make it significantly
- 22 higher?
- A. I don't know. Determination at the
- 24 time.

- 1 Q. How far back in the order history
- 2 would you look to determine whether this
- 3 particular order was significantly higher than
- 4 prior orders?
- 5 MR. MONTMINY: Objection. Form,
- 6 outside the scope.
- 7 A. I don't recall it. I'm sure it was
- 8 different for every situation.
- 9 BY MR. ELSNER:
- 10 Q. Was there a particular database at
- 11 Henry Schein that contained that information?
- 12 A. We had a data warehouse.
- Q. What data was contained in the data
- 14 warehouse that you used to conduct your
- 15 suspicious order monitoring review?
- MR. MONTMINY: Objection. Form.
- 17 A. I don't recall everything that I
- 18 pulled out of there. I know order history was
- 19 one.
- 20 BY MR. ELSNER:
- O. What else?
- 22 A. I don't recall what else was in there.
- Q. Did you ever seek from a physician's
- office information about their patients?

- 1 MR. MONTMINY: Objection. Form,
- 2 outside the scope.
- 3 A. I'm not sure what you mean by
- 4 information on patients.
- 5 BY MR. ELSNER:
- 6 Q. Well, did you determine what kind of
- 7 physician the doctor was and what kind of
- 8 patients the physician was providing services
- 9 to?
- MR. MONTMINY: Objection. Form,
- 11 outside the scope.
- 12 A. Part of when I spoke to a physician I
- would ask what their practice was, and typically
- 14 I get a high level what are your visits like
- 15 with patients. I never got to details.
- 16 BY MR. ELSNER:
- Q. When you say high level what were your
- 18 visits like with patients, you'd ask them how
- 19 long they'd spend with a patient?
- MS. MILLER: Object to form.
- 21 A. Not specifically. Every conversation
- 22 with a doctor was different. But I'd ask how
- many patients you'd seen, as an example, but
- every conversation was different.

- 1 BY MR. ELSNER:
- Q. How long do those calls generally
- 3 last?
- 4 MR. MONTMINY: Objection. Form,
- 5 outside the scope.
- 6 A. Every call was a different length.
- 7 BY MR. ELSNER:
- 8 Q. Every call was unique and completely
- 9 different? You never asked the same question,
- 10 you never had a set of questions that you were
- 11 sure to follow up with with each physician?
- MR. MONTMINY: Objection. Form.
- 13 A. I believe there are guidelines that I
- 14 used, but every call was unique.
- 15 BY MR. ELSNER:
- 16 Q. So other than how many patients the
- doctor had seen, what else would you ask?
- MR. MONTMINY: Objection. Form,
- 19 outside the scope.
- 20 A. It all depends on why I was following
- 21 up on the order.
- 22 BY MR. ELSNER:
- Q. Did you ever ask for dispensing
- 24 history from a physician's office?

- 1 MR. MONTMINY: Objection. Form.
- 2 A. I don't recall.
- 3 BY MR. ELSNER:
- 4 Q. Did you ever ask whether that
- 5 physician was ordering controlled substances
- 6 from other wholesale distributors?
- 7 MR. MONTMINY: Objection. Form.
- 8 A. I might have. I don't specifically
- 9 remember.
- 10 BY MR. ELSNER:
- 11 Q. What else do you remember about what
- 12 you'd ask physicians for.
- MR. MONTMINY: Objection. Form.
- 14 A. Again, it all depended on why I was
- 15 conducting the order.
- 16 BY MR. ELSNER:
- 17 Q. When you were going to do a site
- 18 visit, what was it that you were looking for?
- MR. MONTMINY: Objection. Form.
- 20 A. It all depends on why I decided to do
- 21 the site visit.
- 22 BY MR. ELSNER:
- Q. Give me an example, any example.
- A. At a high level I was looking to see

- 1 that they were a legitimate physician.
- Q. How did you do that?
- MS. MILLER: Object to form.
- 4 A. Doing a site visit and speaking with
- 5 the doctor or, like I said, Google searches and
- 6 reviews. I mean, there was tons of resources.
- 7 BY MR. ELSNER:
- Q. Did you look at dispensing history
- 9 from those physicians' offices? When you
- 10 conducted a site visit, would you ask to see
- 11 their dispensing records?
- MR. MONTMINY: Object to form.
- 13 Outside the scope.
- 14 A. I don't recall ever asking to see
- dispensing records.
- 16 BY MR. ELSNER:
- 17 Q. There came a time when you -- strike
- 18 that.
- 19 Buzzeo had annual conferences for
- 20 controlled substances, is that right?
- 21 A. I believe they were annual.
- Q. And you attended some of those?
- 23 A. Yes.
- Q. How many of them did you attend?

- 1 A. I don't recall.
- 2 Q. More than one?
- 3 A. I attended more than one.
- 4 Q. How many?
- 5 MS. MILLER: Object to form.
- 6 BY MR. ELSNER:
- 7 Q. Five?
- 8 MS. MILLER: Object to form.
- 9 A. I don't recall the exact number.
- 10 BY MR. ELSNER:
- 11 Q. They had a conference at the Crystal
- 12 Gateway Marriott in Arlington, Virginia in
- 13 October of 2008. That was the sixth one. Did
- 14 you attend that one in 2008?
- MS. MILLER: Object to form.
- 16 A. I don't specifically remember the
- 17 year, but it's possible.
- MR. ELSNER: We'll mark this document
- 19 as Exhibit 2.
- 20 (Whereupon, CVS-Schiavo-2 was marked
- 21 for identification.)
- 22 BY MR. ELSNER:
- 23 Q. This is MR 98.
- MS. MILLER: One copy is for me. You

- 1 keep that one.
- MR. MONTMINY: Do you have an extra
- 3 copy of that?
- 4 BY MR. ELSNER:
- 5 Q. Mr. Schiavo, I placed before you a
- 6 series of e-mails. And if you start on the
- 7 bottom e-mail on the first page, which is
- 8 495778, you are among the recipients of this
- 9 e-mail from Leslie Lowry. Do you see your name
- 10 there?
- 11 A. Yes.
- 12 O. And this relates to the "8th Annual CS
- 13 Conference Agenda & Speaker Information, " is
- 14 that right?
- 15 A. That's what the subject says.
- 16 Q. Do you know who Leslie Lowry is?
- 17 A. I don't remember exactly what her role
- 18 was. I do remember having conversations and
- 19 talking with her.
- Q. And she's with the Buzzeo Group, is
- 21 that right?
- 22 A. She -- at that time it looks like they
- 23 were Cegedim, but...
- Q. Previously they were the Buzzeo Group,

- 1 they changed names?
- 2 A. As I understand it, yes.
- Q. And it attaches an agenda to the 8th
- 4 Annual Controlled Substances Conference, is that
- 5 right?
- 6 A. That's what it says.
- 7 Q. Okay. And if you look at the
- 8 conference schedule, you're listed as a speaker
- 9 at this conference, is that right?
- 10 A. Which page are we looking at?
- 11 Q. If we start toward the back, 495784.
- 12 A. It has me listed as a speaker.
- Q. Okay. And then there you're listed --
- 14 your title on this is "Regulatory Specialist/DEA
- 15 Compliance, Henry Schein, "correct?
- 16 A. That's what it says.
- 0. Was that accurate?
- 18 A. I don't have reason to believe it
- 19 wasn't accurate.
- Q. Okay. And it appears that you're on
- 21 two back-to-back panels, one from 4 to 4:45, and
- then on the second panel on SOM compliance,
- you're listed at the top of the following page
- 24 at 495785, is that right?

- 1 A. I see that.
- Q. Did you speak at this conference?
- A. I don't remember it to be the 8th, but
- 4 I did speak at a Buzzeo conference, yes.
- 5 Q. Did you do it one time, or did you do
- 6 it more than once?
- 7 A. I remember speaking at one Buzzeo
- 8 conference.
- 9 O. Could it have been more?
- MS. MILLER: Object to form.
- 11 A. When you say "speak," you mean
- 12 present?
- 13 BY MR. ELSNER:
- Q. Well, let's start with present. Did
- 15 you present at more than one conference?
- 16 A. I don't believe I presented at more
- 17 than one conference.
- 18 Q. Did you otherwise speak at more than
- one conference?
- 20 A. While at the conference I've had
- 21 conversation with colleagues.
- Q. I meant in a public way.
- 23 A. No.
- Q. Was there a reason that you asked me

- 1 whether you -- you seem to define my term of
- 2 presentation to speak or not, so was there a
- 3 reason that you did that?
- 4 MS. MILLER: Object to form.
- 5 A. I just want to make sure I answered
- 6 your question.
- 7 BY MR. ELSNER:
- 8 O. And I want to make sure I've exhausted
- 9 your participation in these conferences. Did
- 10 you -- other than speak at this particular
- 11 conference, did you otherwise participate in the
- 12 conference in any other way than as an observer,
- if you attended others?
- MS. MILLER: Object to form.
- 15 A. Aside from speaking at this one
- 16 conference, that was the only time I can recall
- being asked to contribute anything to the
- 18 conference.
- 19 BY MR. ELSNER:
- Q. Who asked you to speak?
- 21 A. I don't remember who originally asked
- 22 me to speak.
- Q. Do you know why they asked you to
- 24 speak? What did they tell you?

- 1 MS. MILLER: Object to form.
- 2 A. I don't remember the specific
- 3 conversation where they asked me to speak.
- 4 BY MR. ELSNER:
- 5 O. This is the 8th Annual Controlled
- 6 Substance Conference. Had you attended any
- 7 conferences before this conference where you
- 8 were asked to speak?
- 9 MS. MILLER: Object to form.
- 10 A. Not that I recall.
- 11 BY MR. ELSNER:
- 12 Q. So they asked you to speak at the very
- 13 first conference you attended, is that your
- 14 testimony?
- MS. MILLER: Object to form.
- 16 A. That's not my testimony. I don't
- 17 recall if this was the first one that I went to.
- 18 BY MR. ELSNER:
- 19 Q. Did you have a -- when you attended
- these conferences, did you keep any of the
- 21 materials from the conferences you attended?
- MS. MILLER: Object to form.
- 23 A. Did I keep them for -- I'm sure I
- 24 brought materials home with me.

- 1 BY MR. ELSNER:
- Q. What would you do with them when you
- 3 brought them home?
- 4 MS. MILLER: Object to form.
- 5 BY MR. ELSNER:
- 6 Q. Did you save them at your office?
- 7 Would you save them at home? What would you do
- 8 with them?
- 9 A. I don't recall.
- MS. MILLER: Object to form.
- 11 BY MR. ELSNER:
- 12 O. Do you have a file of all these
- materials at your office or at home?
- MS. MILLER: Object to form.
- 15 A. Are you asking presently, or at the
- 16 time of the conference?
- 17 BY MR. ELSNER:
- 18 Q. Let's say at the time of the
- 19 conferences when you were at Henry Schein, did
- you keep a file of the conferences that you
- 21 attended at your office or at home?
- MS. MILLER: Object to form.
- A. I don't recall.
- 24 BY MR. ELSNER:

- Q. What about today, do you have a file
- of the conferences that you attend or the
- 3 conferences that you've spoken at either at your
- 4 office or at your home?
- 5 MS. MILLER: Object to form.
- 6 A. I know I have a copy of a
- 7 presentation. I don't recall having any other
- 8 documentation from previous conferences.
- 9 BY MR. ELSNER:
- 10 Q. So when I speak at a conference, a lot
- of times I'll write out what I'm going to say
- 12 and sometimes I'll prepare a PowerPoint and I
- 13 have one of each. Did you do the same thing, or
- do you just have a copy of the PowerPoint?
- MS. MILLER: Object to form.
- 16 A. I honestly don't recall how I prepared
- or what I prepared for speaking.
- 18 BY MR. ELSNER:
- 19 Q. Let me show you what we've marked as
- 20 Exhibit 3.
- 21 (Whereupon, CVS-Schiavo-3 was marked
- for identification.)
- 23 BY MR. ELSNER:
- Q. This is a copy of a PowerPoint

- 1 presentation. Do you see on the top left-hand
- 2 side it says "8th Annual Controlled Substance
- 3 Conference"? Did I read that correctly?
- 4 A. I see that.
- 5 O. And the title of the PowerPoint is
- 6 "The Challenge to 'Know Your Customer' and Best
- 7 Practices." Did I read that right?
- 8 A. You read that right.
- 9 O. Okay. And then it lists "Craig
- 10 Schiavo, Regulatory Specialist/DEA Compliance,
- 11 Henry Schein, November 2010." Did I read that
- 12 right?
- 13 A. You read that correctly.
- Q. Did you create this PowerPoint
- 15 presentation?
- MR. MONTMINY: Objection. Form.
- 17 Counsel, could I ask, there's no Bates
- 18 numbers on this document, do you know where this
- 19 came from?
- MR. ELSNER: Yes, we'll get you the
- 21 Bates number.
- MS. MILLER: So this wasn't
- 23 produced --
- MR. ELSNER: It was produced by Henry

- 1 Schein, and it was produced in native, so we'll
- 2 get you the Bates number for that.
- A. I'm sorry, can you just repeat the
- 4 question?
- 5 BY MR. ELSNER:
- 6 Q. I asked if you created this PowerPoint
- 7 presentation.
- 8 A. Can I look through it?
- 9 O. Sure.
- 10 (Witness reviewing document.)
- 11 A. I recall giving input on it.
- 12 Q. What input? Did you assist in
- 13 providing the information to someone to create
- 14 the slides?
- 15 A. At some point I might have.
- 16 Q. Well, is this the PowerPoint you used
- 17 for your presentation at this conference?
- MR. MONTMINY: Objection. Form.
- 19 A. I'm not sure if this is the exact
- 20 presentation.
- 21 BY MR. ELSNER:
- O. Does it look like it is?
- MR. MONTMINY: Objection. Form.
- 24 BY MR. ELSNER:

- 1 Q. Do you have reason to believe that
- 2 it's not?
- MR. MONTMINY: Objection. Form.
- 4 A. I don't have reason to believe that
- 5 it's not, but I don't remember this whole
- 6 presentation.
- 7 BY MR. ELSNER:
- Q. If you turn to Page 3 of the
- 9 presentation, there's an overview of Henry
- 10 Schein. It says "Henry Schein Over 75 Years
- of Quality Service." Do you see that? Did I
- 12 read that correctly?
- 13 A. You read that correctly.
- 0. Okay. And the second bullet -- or the
- 15 first bullet, it says that "Henry Schein is the
- largest distributor of healthcare products and
- 17 services to office-based practitioners." Did I
- 18 read that correctly?
- 19 A. You read that correctly.
- 20 O. Was that true --
- MR. MONTMINY: Object to form.
- 22 BY MR. ELSNER:
- Q. -- at the time?
- A. It says it there.

- 1 Q. You didn't intend to put misleading
- 2 information in the PowerPoint, right?
- MR. MONTMINY: Object to form.
- 4 MS. MILLER: Object.
- 5 BY MR. ELSNER:
- 6 O. Correct?
- 7 A. I don't think I would put misleading.
- Q. In the second bullet it says that
- 9 Henry Schein has 700,000 customers worldwide and
- 10 386,000 domestic customers, is that right?
- MR. MONTMINY: Objection. Form.
- 12 A. I don't recall those numbers.
- 13 BY MR. ELSNER:
- 14 Q. That's the presentation that you gave
- 15 at this conference, though, is that right?
- MR. MONTMINY: Objection. Form.
- 17 A. That's what it says in the deck.
- 18 BY MR. ELSNER:
- 19 Q. It then says that "Customers include
- dental practices and laboratories, physician
- 21 practices, and animal health clinics." Is that
- 22 right?
- MS. MILLER: Object to form.
- A. That's what it says.

- 1 BY MR. ELSNER:
- Q. Is that consistent with your
- 3 understanding of Henry Schein's customer base?
- 4 MR. MONTMINY: Objection. Form,
- 5 outside the scope.
- 6 A. I do recall those being part of the
- 7 customer base.
- 8 BY MR. ELSNER:
- 9 Q. If you turn to the next page, the top,
- the heading on the top is "Why Due Diligence Is
- 11 Required, " is that right?
- 12 A. That's what it says.
- Q. And it refers to the December, 2007
- 14 letter from the DEA, is that right?
- 15 A. That's what it says.
- 16 O. This is a reference to the letter that
- was authored by Joseph Rannazzisi to all
- 18 manufacturers and distributors of controlled
- 19 substances, is that right?
- MS. MILLER: Object to form.
- A. As I recall, that's the letter.
- 22 BY MR. ELSNER:
- Q. Okay. And you had seen that letter,
- obviously, before with your work at Henry

- 1 Schein, is that right?
- MS. MILLER: Object to form.
- 3 A. I had seen that letter while at Henry
- 4 Schein.
- 5 BY MR. ELSNER:
- 6 Q. Okay. And that letter refers to, and
- 7 in your first bullet you quote, to "Design and
- 8 operate a system to disclose to the registrant
- 9 suspicious orders of controlled substances, " and
- 10 then there's a citation. You understand that to
- 11 be a citation to the Controlled Substances Act,
- 12 is that right?
- MR. MONTMINY: Object to form.
- MS. MILLER: Object to form.
- 15 A. I know that's straight out of the CFR.
- 16 BY MR. ELSNER:
- 17 Q. Do you understand that that's part of
- 18 the Controlled Substances Act?
- MS. MILLER: Object to form.
- 20 A. I know the CFR has regulations from
- 21 the DEA.
- 22 BY MR. ELSNER:
- Q. Did you know that the Controlled
- 24 Substances Act had been in place since 1970?

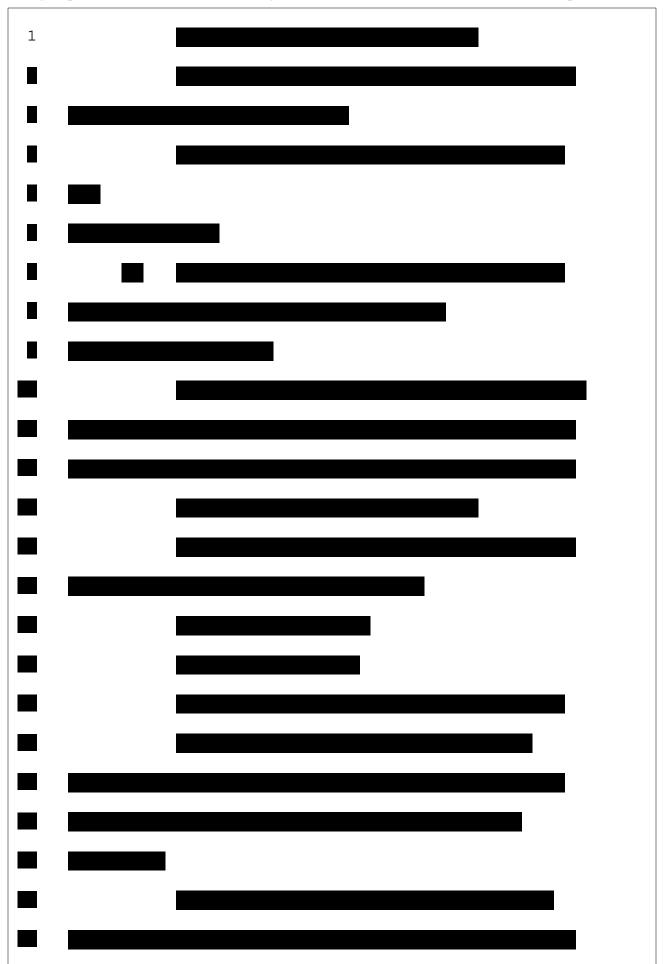
- 1 MS. MILLER: Object to form.
- 2 A. I didn't know the exact date.
- 3 BY MR. ELSNER:
- Q. At the last bullet on this page, it
- 5 states "Suspicious orders include orders of
- 6 unusual size, orders deviating substantially
- 7 from a normal pattern, and orders of an unusual
- 8 frequency." Did I read that correctly?
- 9 MR. MONTMINY: Objection. Form.
- 10 A. You read that correctly.
- 11 BY MR. ELSNER:
- 12 Q. Okay. And this is also a quote from
- 13 the letter, the 2007 letter from the DEA
- 14 relating to reporting suspicious orders of
- 15 controlled substances, is that right?
- MS. MILLER: Object to form.
- 17 A. Can you just repeat the question?
- 18 BY MR. ELSNER:
- 19 Q. This is a quote from the December,
- 20 2007 letter from the DEA, is that right?
- MS. MILLER: Object to form.
- 22 A. I see the quotes around it. I don't
- 23 know if that's exactly from the letter.
- 24 BY MR. ELSNER:

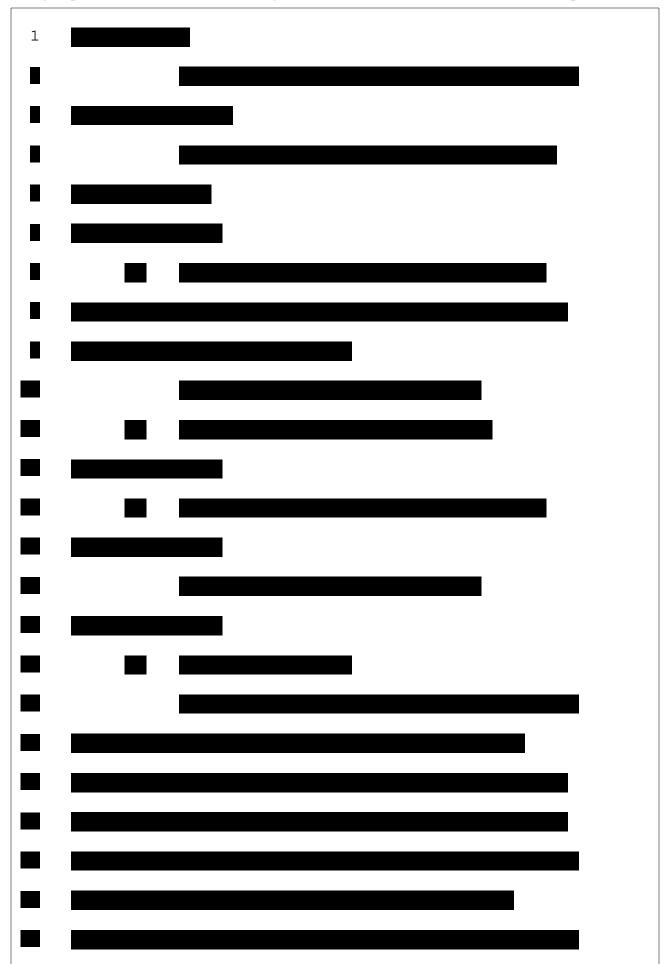
- 1 Q. And the heading of this slide is the
- 2 December, 2007 letter from the DEA?
- 3 A. That's what it says.
- 4 Q. Do you understand that to be a quote
- 5 from the DEA letter?
- 6 MS. MILLER: Object to form.
- 7 A. I see what the title says. I see the
- 8 quote. I can't remember if I pulled that
- 9 directly out of the letter.
- 10 BY MR. ELSNER:
- 11 Q. Well, you're familiar with the letter,
- 12 right? You know that's what's in the letter
- from the DEA in December of 2007? You've seen
- 14 it before?
- MS. MILLER: Object to form.
- 16 A. I read the letter. I haven't read
- that letter in a long time, I can't remember
- 18 every word in the letter, or every quote in the
- 19 letter.
- 20 BY MR. ELSNER:
- 21 Q. That was a pretty important part of
- 22 the letter, though, from the DEA in December of
- 23 2007, wasn't it?
- MS. MILLER: Object to form.

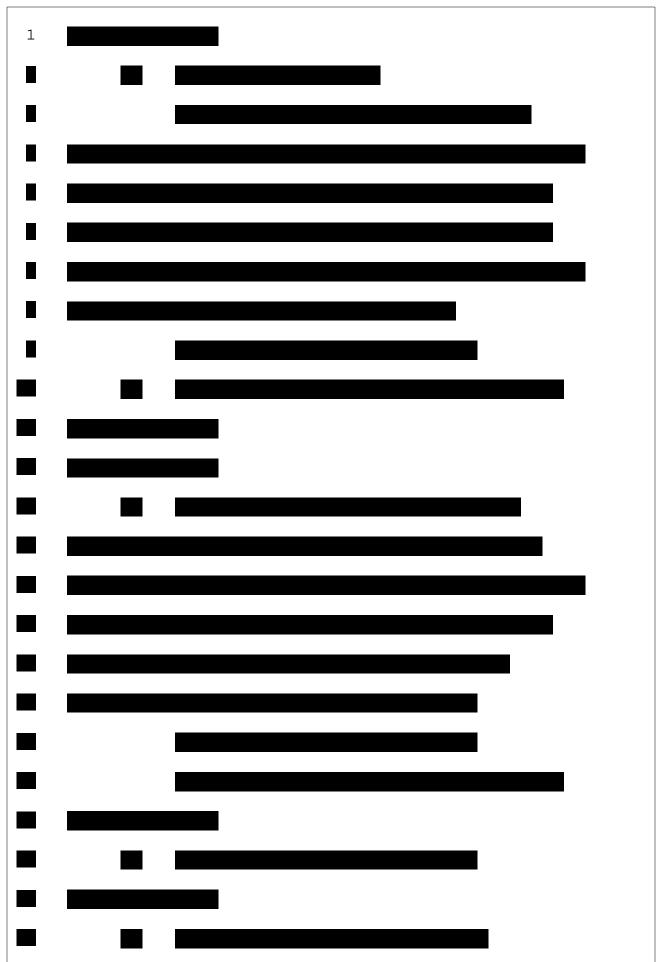
- 1 MR. MONTMINY: Objection.
- 2 A. It was part of the letter.
- 3 BY MR. ELSNER:
- 4 O. Here's the Exhibit 4 which is the
- 5 December 27, 2007 letter from the DEA.
- 6 (Whereupon, CVS-Schiavo-4 was marked
- 7 for identification.)
- 8 BY MR. ELSNER:
- 9 Q. This is the letter that was sent to
- 10 every manufacturer and distributor of controlled
- 11 substances, is that right?
- MS. MILLER: Object to form.
- 13 A. That's how I understood the letter. I
- 14 don't know if I can confirm that was --
- 15 BY MR. ELSNER:
- 16 Q. Is that what it says in the first
- 17 letter of the -- the first sentence of the
- 18 letter? It says "This letter is being sent to
- 19 every entity in the United States registered
- 20 with the Drug Enforcement" Agency -- sorry --
- 21 "Administration to manufacture or distribute
- 22 controlled substances." Is that what it says?
- 23 A. That is what it says in the letter.
- Q. The next sentence says "The purpose of

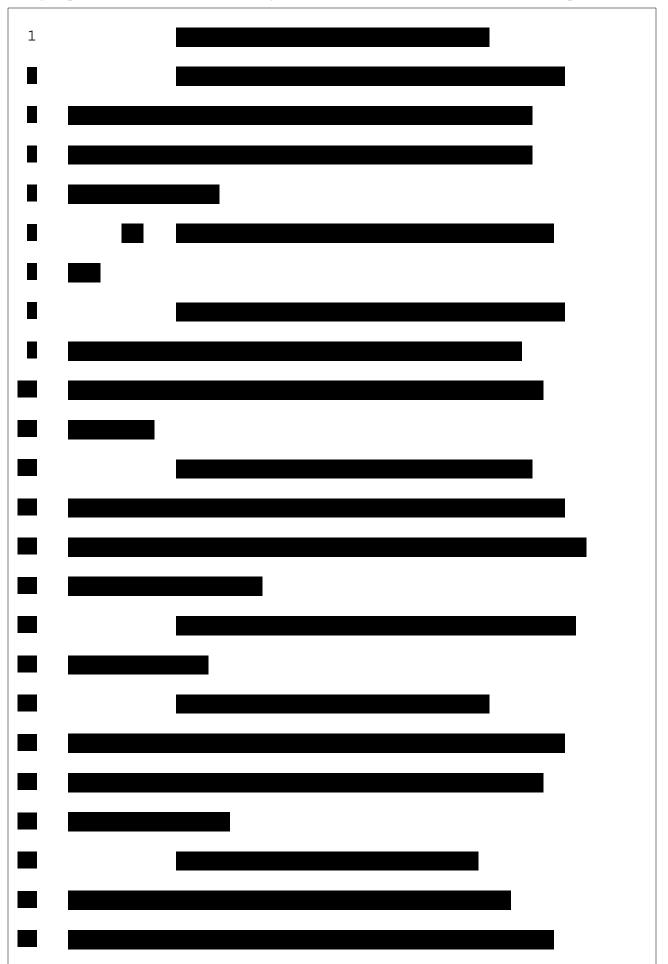
- 1 this letter is to reiterate the responsibilities
- of controlled substance manufacturers and
- 3 distributors to inform DEA of suspicious orders
- 4 in accordance with 21 CFR 1301.74," is that
- 5 right?
- 6 MS. MILLER: Object to form.
- 7 BY MR. ELSNER:
- 8 Q. Is that what it says?
- 9 A. That's what it says.
- 10 Q. Okay. And that's what you put in the
- 11 very first bullet in your presentation on
- 12 Page 4?
- MR. MONTMINY: Objection. Form.
- 14 A. That looks to be what I put.
- 15 BY MR. ELSNER:
- 16 Q. Okay. And if you look at the last
- 17 bullet on your presentation on Page 4,
- 18 "Suspicious orders include orders of unusual
- 19 size, orders deviating substantially from a
- 20 normal pattern, and orders of unusual
- 21 frequency." Is that what you wrote?
- MR. MONTMINY: Object to form.
- MS. MILLER: Objection. Form.
- A. That's what it says here.

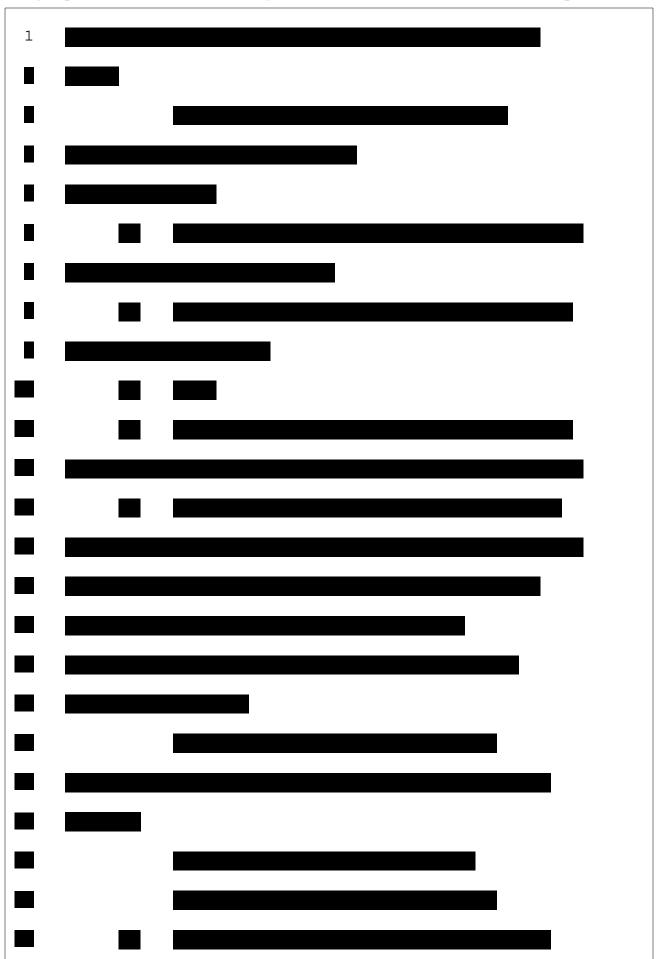
BY MR. ELSNER: 1 2 Q. And if you go to the last paragraph of the DEA letter from December 27, 2007 in the 3 first line, the last paragraph there. Do you 4 see where I am, beginning "The regulation 5 specifically states"? Are you with me? 6 7 I'm with you. Α. 8 It says "The regulation specifically 0. 9 states that suspicious orders include orders of 10 unusual size, orders deviating substantially 11 from a normal pattern, and orders of unusual 12 frequency." Is that what it says? 13 Α. That's what it says. 14 Okay. And that's what's quoted on Q. 15 Page 4 of your presentation? 16 MS. MILLER: Object to form. 17 That looks to align. Α. 18 BY MR. ELSNER: 19 Q. Turn to Page 5 of your presentation. 20

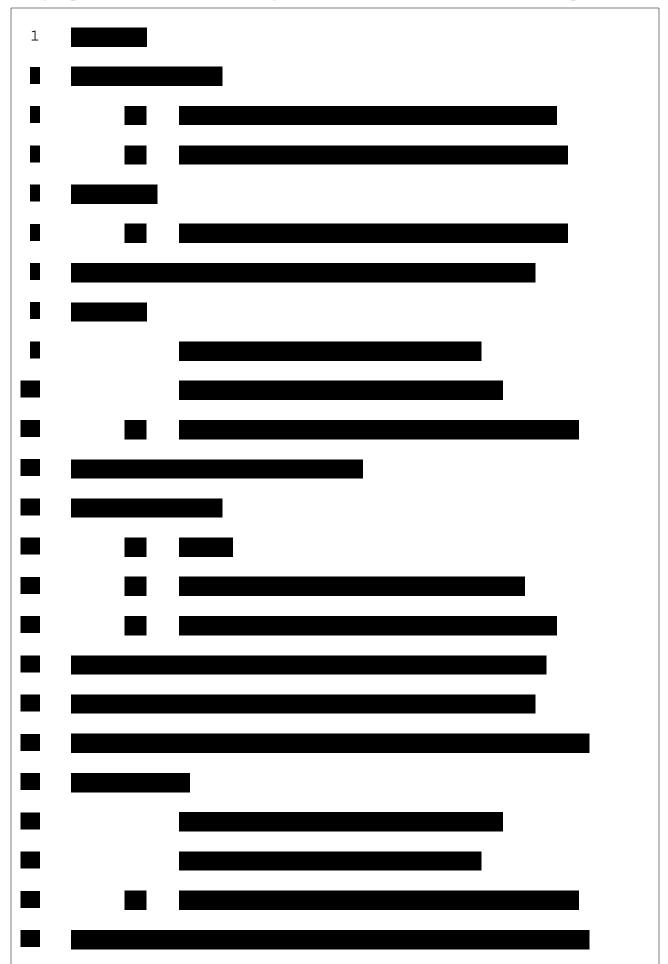


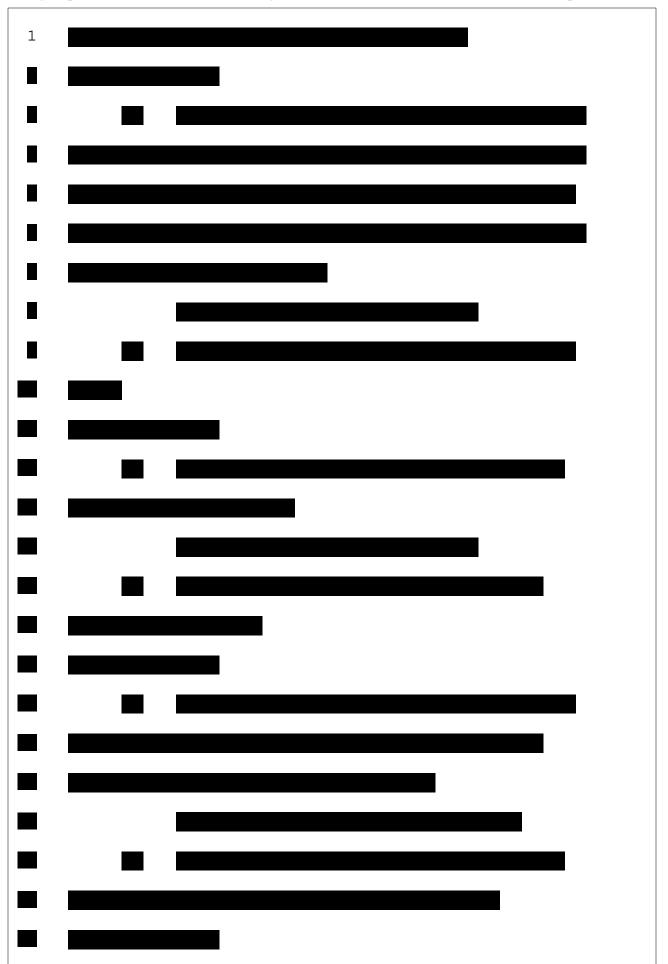


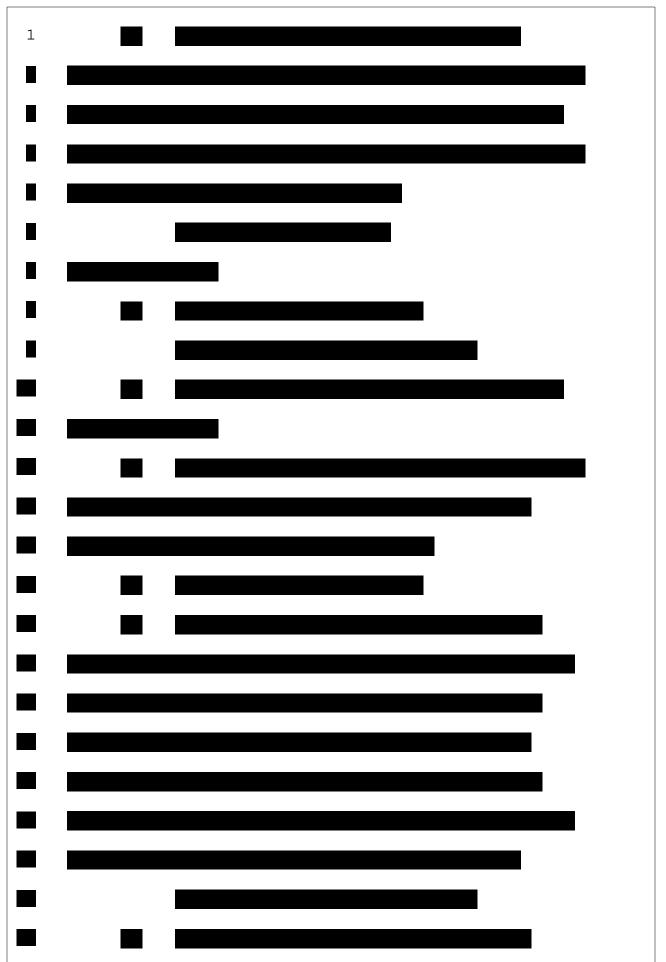












- 1
- 3 BY MR. ELSNER:
- 4 Q. If you turn back to your presentation,
- 5 which is Exhibit 3, the PowerPoint presentation.
- 6 It has in the next -- on Page 5 there's a title
- 7 that says October 2009 Meeting with the DEA. Do
- 8 you see that?
- 9 A. On Page 5.
- 10 Q. The heading.
- 11 A. I see that.
- 12 Q. Okay. Did I read that accurately?
- 13 A. "October 2009 meeting with DEA."
- Q. And this refers to a meeting that
- 15 Henry Schein had with the DEA in New York, is
- 16 that right?
- MR. MONTMINY: Objection. Form.
- 18 A. I don't remember exactly when that
- meeting took place, but I know that we had a
- 20 meeting with the DEA.
- 21 BY MR. ELSNER:
- Q. Did you attend that meeting?
- A. I attended that meeting.
- Q. That was in Long Island?

- 1 A. Yes, that was on Long Island.
- Q. And in the first bullet here, you --
- 3 it states "Reiterated what was documented in the
- 4 December 2007 letter." That refers to the DEA
- 5 letter of December of 2007 that we were
- 6 discussing, is that right?
- 7 MS. MILLER: Object to form.
- 8 A. Although I don't specifically recall
- 9 that, it makes sense that that's what it's
- 10 referring to.
- 11 BY MR. ELSNER:
- 12 Q. Okay. And then next it says "Advised
- 13 what was expected of HSI as a distributor of
- 14 controlled substances." This is the DEA
- 15 advising Henry Schein as to what is expected as
- 16 a distributor of controlled substances. Was
- 17 that part of the discussion?
- 18 A. I don't exactly remember the full
- 19 conversation with the DEA, but that's what it
- 20 says there.
- Q. Okay. It says here that there was a
- 22 binder provided by the DEA which contained
- 23 regulations, case studies, and ARCOS
- 24 information. Did the DEA provide Henry Schein

- 1 with these materials in the DEA meeting?
- MR. MONTMINY: Objection to form.
- 3 Outside the scope.
- 4 A. I remember getting a binder during
- 5 that meeting, or binders being provided.
- 6 BY MR. ELSNER:
- 7 Q. Where did you keep those at Henry
- 8 Schein, if you kept them?
- 9 MR. MONTMINY: Objection. Form,
- 10 outside the scope.
- 11 A. I don't remember where those were
- 12 maintained.
- 13 BY MR. ELSNER:
- Q. Did you maintain them, or did somebody
- else that attended the meeting take them with
- 16 them?
- MR. MONTMINY: Objection. Form,
- 18 outside the scope.
- 19 A. I really don't recall.
- 20 BY MR. ELSNER:
- Q. Who else was there from Henry Schein
- 22 other than you?
- MR. MONTMINY: Objection. Form,
- 24 outside the scope.

- 1 A. The only other individuals I
- 2 specifically recall being there were Len David
- 3 and Sergio Tejeda.
- 4 Q. Who is Sergio Tejeda?
- 5 MR. MONTMINY: Objection to form.
- 6 A. He was my manager at the time.
- 7 BY MR. ELSNER:
- Q. In the last -- do you recall what was
- 9 in the binder other than what's listed here?
- 10 A. I don't recall all this being listed
- 11 being in the binder. I see it says it there. I
- don't recall -- if this was it, I don't recall
- 13 what else was in there.
- 14 Q. In the last bullet it says "Put HSI on
- 15 notice." Is that what it says?
- 16 A. That is what it says.
- 17 Q. And that was to put Henry Schein on
- 18 notice of its obligations with respect to the
- 19 distribution of controlled substances, is that
- 20 right?
- MR. MONTMINY: Objection. Form.
- A. I'm not exactly sure what I meant by
- 23 that.
- 24 BY MR. ELSNER:

- Q. You're not sure what you meant by "Put
- 2 HSI on notice"? Is there anything else they
- 3 could have put you on notice about that came up
- 4 in that meeting?
- 5 MS. MILLER: Object to form.
- 6 MR. MONTMINY: Object to form.
- 7 A. I don't recall.
- 8 BY MR. ELSNER:
- 9 Q. But that's what you wrote, is that
- 10 right?
- MR. MONTMINY: Object to form.
- 12 A. Again, I don't know if I wrote that,
- 13 but that's what it says in here.
- 14 BY MR. ELSNER:
- 15 Q. That's in the presentation you gave,
- 16 is that right?
- MS. MILLER: Object to form.
- MR. MONTMINY: Object to form.
- 19 A. I don't know if this is the exact
- 20 presentation I gave, but that is in this
- 21 presentation that we're reviewing.
- 22 BY MR. ELSNER:
- O. You have no reason to believe that
- it's not in the presentation that you gave to

- 1 everyone that attended this conference, is that
- 2 right?
- MR. MONTMINY: Objection. Form.
- 4 A. If you're saying that's what this is,
- 5 I don't have reason to believe that it isn't,
- 6 but I don't recall this being the exact
- 7 presentation.
- 8 BY MR. ELSNER:
- 9 Q. If you turn to the -- let me ask one
- 10 other question.
- Who asked for the meeting? Did Henry
- 12 Schein ask for the meeting with the DEA, or did
- 13 the DEA ask to meet with Henry Schein?
- MR. MONTMINY: Objection. Form,
- outside the scope.
- 16 A. I believe the DEA asked for this
- 17 meeting.
- 18 BY MR. ELSNER:
- 19 Q. Okay. Do you understand why the DEA
- 20 asked for the meeting?
- MS. MILLER: Object to form.
- 22 A. I don't know if I ever knew the exact
- 23 reason why.
- 24 BY MR. ELSNER:

- 1 Q. If you turn to the next page of the
- 2 PowerPoint, this is "HSI SOM Implementation
- 3 Challenges." Is that what the heading says?
- 4 A. That is what the heading says.
- 5 Q. Okay. One of the challenges that
- 6 Henry Schein faced from a suspicious order
- 7 monitoring point of view was the amount of
- 8 customers that they had, which is listed in the
- 9 second bullet, right? It says "Amount of
- 10 customers (386,000 total/36,300 purchase
- 11 controls)."
- 12 What does purchase controls refer to?
- MR. MONTMINY: Objection. Form,
- 14 compound.
- 15 A. I'm not exactly sure.
- 16 BY MR. ELSNER:
- 0. One of the challenges that Henry
- 18 Schein faced in its suspicious order monitoring
- 19 program was the number of customers that it had,
- 20 is that correct?
- 21 MR. MONTMINY: Objection. Form,
- 22 outside the scope.
- A. It's documented there as a challenge.
- 24 BY MR. ELSNER:

- Q. And it says it had a "Vast/complicated"
- customer base (Dental/Mental/Vet), " right?
- MS. MILLER: Object to form.
- 4 MR. MONTMINY: Objection. Form.
- 5 A. That is what it says.
- 6 BY MR. ELSNER:
- 7 Q. In the fourth bullet, one of the
- 8 challenges in the SOM implementation at Henry
- 9 Schein was a "Lack of resources." Is that what
- 10 it says?
- MR. MONTMINY: Objection. Form.
- 12 A. That is what it says.
- 13 BY MR. ELSNER:
- 14 Q. Lack of resources to do due diligence
- on new accounts, correct?
- MR. MONTMINY: Objection. Form.
- 17 A. That's what it says.
- 18 BY MR. ELSNER:
- 19 Q. To review pending accounts, is that
- 20 right?
- MR. MONTMINY: Objection. Form,
- 22 outside the scope.
- A. That's what it says.
- 24 BY MR. ELSNER:

- 1 Q. And a lack of resources for site
- visits, correct?
- MR. MONTMINY: Objection. Form,
- 4 outside the scope.
- 5 A. That is what it says.
- 6 BY MR. ELSNER:
- 7 Q. Okay. One of the other implementation
- 8 challenges for the SOM program under
- 9 "Sales/Field Sales Representatives" in the
- 10 second bullet says a "Conflict of interest?"
- 11 What are you referring to there?
- MR. MONTMINY: Objection. Form,
- outside the scope.
- 14 A. I don't know exactly what I meant when
- 15 I put that.
- 16 BY MR. ELSNER:
- 0. Was there a conflict of interest
- 18 between those who were trying to sell products
- 19 and obtain new customers for controlled
- 20 substances versus compliance?
- MR. MONTMINY: Objection. Form,
- 22 outside the scope.
- 23 A. I guess there could be, but I guess --
- 24 I think that depends on the person, but again I

- don't know exactly what I was referring to here.
- 2 BY MR. ELSNER:
- Q. Is that a potential conflict of
- 4 interest that could exist within a company
- 5 related to the monitoring for suspicious orders
- of controlled substances?
- 7 MR. MONTMINY: Objection. Form.
- 8 A. I don't know. I know specifically at
- 9 Henry Schein that was not a concern of mine.
- 10 BY MR. ELSNER:
- 11 Q. But you wrote "Sales/Field
- 12 Representatives Conflict of Interest." Is that
- 13 what you wrote?
- MR. MONTMINY: Object to form.
- 15 A. That's what this document says.
- 16 BY MR. ELSNER:
- 17 Q. It also says one of the implementation
- 18 challenges is "Cooperation from customers,"
- 19 correct?
- MR. MONTMINY: Objection. Form.
- 21 A. That's what it says.
- 22 BY MR. ELSNER:
- Q. What did you mean by that?
- MS. MILLER: Objection. Form.

- 1 A. Again, I don't know exactly what I
- 2 meant when I put this together.
- 3 BY MR. ELSNER:
- 4 Q. Well, did you have any difficulties in
- 5 the Henry Schein customers that you were
- 6 interacting with to obtain information from them
- 7 in order that you can conduct your due
- 8 diligence?
- 9 MR. MONTMINY: Objection. Form.
- 10 A. I can't remember any specific
- 11 examples, but every interaction with the
- 12 prescriber was different. Some were easier to
- 13 work with than others.
- 14 BY MR. ELSNER:
- 15 Q. You don't recall a single instance
- where there was a client at Henry Schein where
- 17 you had requested information and they were not
- 18 cooperating fully with your request for the
- 19 information?
- MR. MONTMINY: Objection. Form.
- 21 A. I can't recall a time where we had a
- 22 customer who -- I mean, I recall there being
- 23 difficult conversations with customers. I don't
- 24 recall any situations where I couldn't get what

- 1 I needed to conduct due diligence.
- 2 BY MR. ELSNER:
- Q. Do you recall conversations with
- 4 clients that were angry or frustrated that Henry
- 5 Schein had not distributed or sold a controlled
- 6 substance to them?
- 7 MR. MONTMINY: Objection. Form,
- 8 outside the scope.
- 9 A. I don't remember any specific
- 10 conversations.
- 11 BY MR. ELSNER:
- 12 O. Do you recall that there were
- 13 physicians that Henry Schein was distributing
- drugs to, some of whom were self-medicating?
- MR. MONTMINY: Objection. Form,
- 16 outside the scope.
- 17 A. I don't recall any specific prescriber
- 18 that we knew that was self-medicating that we
- 19 would distribute to. I believe -- sorry.
- 20 BY MR. ELSNER:
- Q. Sorry, I didn't mean to interrupt. I
- thought you were done.
- 23 A. I believe our process or our policy
- was not to distribute to self-medicating.

- 1 Q. Why?
- MR. MONTMINY: Objection. Form,
- 3 outside the scope.
- 4 A. That was our policy. I don't think I
- 5 wrote the policy.
- 6 BY MR. ELSNER:
- 7 Q. It's because the drugs are highly
- 8 addictive, right?
- 9 MR. MONTMINY: Objection. Form,
- 10 argumentative.
- 11 A. Not necessarily.
- 12 BY MR. ELSNER:
- 13 O. You don't understand a controlled
- substance to be potentially highly addictive?
- MS. MILLER: Object to form.
- MR. MONTMINY: Object to form.
- 17 A. I know that some controlled substances
- 18 can be addictive.
- 19 BY MR. ELSNER:
- Q. If you turn to the next page in your
- 21 presentation under "Henry Schein's Suspicious
- Order Monitoring" on Page 7. Do you see where
- 23 I'm at?
- MR. MONTMINY: Objection. Form.

- 1 A. I see where you're at.
- 2 BY MR. ELSNER:
- Q. And there's a title there about
- 4 "Active Ingredients," is that right?
- 5 A. I see that.
- 6 Q. It says "All quantities and values
- 7 calculated and used in this system are at the
- 8 active ingredient level." What does that mean?
- 9 A. I believe that's looking at both brand
- 10 name and generic drugs if they had the same
- 11 active ingredient.
- 12 O. So Henry Schein had a -- as a
- 13 component of its suspicious order monitoring
- 14 program was measuring drugs it was selling by
- 15 active ingredient, is that right?
- MS. MILLER: Object to form.
- 17 A. Can you just ask that one more time,
- 18 please?
- 19 BY MR. ELSNER:
- 20 Q. So Henry Schein had as a component of
- 21 its suspicious order monitoring program a system
- to measure drugs it was selling by active
- 23 ingredient?
- MR. MONTMINY: Object to form.

- 1 Outside the scope.
- 2 A. Drugs that were ordered, we took
- 3 active ingredient into account.
- 4 BY MR. ELSNER:
- 5 Q. So that you understood that if
- 6 somebody ordered two different drugs' names, but
- 7 they had the same active ingredient, you could
- 8 calculate those two together to understand the
- 9 total amount of that substance they were
- ordering, isn't that the purpose?
- MS. MILLER: Object to form.
- MR. MONTMINY: Objection. Form.
- 13 A. I don't recall what the exact purpose
- is, but it was to see for that active ingredient
- 15 how much was being ordered.
- 16 BY MR. ELSNER:
- Q. And the only way to do that is to
- 18 measure by active ingredient, you couldn't do it
- 19 by drug name, correct?
- MR. MONTMINY: Object to form.
- MS. MILLER: Object to form.
- A. I don't know that to be the case.
- 23 BY MR. ELSNER:
- Q. When did Henry Schein have a system in

- 1 place -- you gave this presentation in November
- of 2010. When did Henry Schein have a system in
- 3 place to calculate drugs by active ingredient as
- 4 a component of its suspicious order monitoring
- 5 system?
- 6 MS. MILLER: Object to form.
- 7 MR. MONTMINY: Objection to form.
- 8 Outside the scope.
- 9 A. I don't recall when that happened.
- 10 BY MR. ELSNER:
- 11 Q. Well, it was in place in 2010, right?
- MS. MILLER: Object to form.
- 13 A. I don't recall.
- 14 BY MR. ELSNER:
- 15 Q. That's what this presentation says,
- 16 right?
- MS. MILLER: Object to form.
- 18 A. It looks like that's what this is
- 19 indicating.
- 20 BY MR. ELSNER:
- O. Do you know whether it was in the new
- 22 system that Henry Schein created or whether it
- was in the existing system that Henry Schein
- created when you arrived and took over these

- 1 roles?
- MR. MONTMINY: Objection. Form,
- 3 outside the scope.
- 4 A. I don't recall what -- prior to me
- 5 getting involved in this, I don't recall what
- 6 the old system had or used, but that was a
- 7 component of the new enhanced system that we
- 8 had.
- 9 BY MR. ELSNER:
- 10 Q. It was a component of the newer
- 11 enhanced system. And when did that come into
- 12 place?
- MR. MONTMINY: Objection. Form,
- outside the scope.
- 15 A. I don't recall.
- 16 BY MR. ELSNER:
- 0. Well, was the enhanced system the
- 18 system that you were working on when you moved
- into a new role at Henry Schein related to DEA
- 20 regulations in 2007?
- MR. MONTMINY: Objection. Form,
- 22 outside the scope.
- 23 A. I'm not sure I understand the
- 24 question.

- 1 BY MR. ELSNER:
- Q. I'm trying to understand the time
- frame. You said that there was a SOM system,
- 4 and then at Henry Schein there was an enhanced
- 5 SOM system. So I'm trying to understand the
- 6 time frame of when you were working on the
- 7 enhanced SOM system. That's part of what you
- 8 were working on, is that right?
- 9 MR. MONTMINY: Object to form.
- MS. MILLER: Object to form.
- 11 A. At some point during my role we worked
- on enhancing our SOM system.
- 13 BY MR. ELSNER:
- Q. But at some time when, 2007, '8, '9?
- 15 A. I really don't recall.
- 16 Q. That's part of what you were working
- on was the enhanced system, though, when you
- 18 moved into that position in 2007, is that right?
- MR. MONTMINY: Objection. Form.
- 20 A. I don't recall what I was doing when I
- 21 went into that position.
- 22 BY MR. ELSNER:
- Q. Well, what's your best memory of what
- 24 system was in place when you moved into that

- 1 position in 2007 and when you were working on
- 2 the enhanced system?
- MR. MONTMINY: Objection. Form.
- 4 A. I really don't recall much about the
- old system, and I don't remember.
- 6 BY MR. ELSNER:
- 7 Q. Did you work on the enhanced system?
- A. I was part of a team that worked on
- 9 the enhanced system.
- 10 Q. Okay. What's your best estimate of
- 11 when you were doing that work?
- MR. MONTMINY: Objection. Form.
- 13 A. I don't remember. Sometime when I
- 14 started the role.
- 15 BY MR. ELSNER:
- Q. When you gave this presentation in
- 17 November of 2010, was the enhanced system fully
- 18 active or not?
- MR. MONTMINY: Objection. Form.
- 20 A. I don't recall.
- 21 MR. ELSNER: I'm going to mark this
- 22 next document as Exhibit 6.
- 23 (Whereupon, CVS-Schiavo-6 was marked
- for identification.)

- 1 BY MR. ELSNER:
- Q. This is MR 268. Do you see the first
- page is a cover e-mail from you to three
- 4 individuals? Who are the three individuals that
- 5 you sent this e-mail to?
- 6 A. Len David, Mike DiBello, and Sergio
- 7 Tejeda.
- Q. Who are they?
- 9 A. Sergio was my manager at the time.
- 10 Mike was -- I believe he was the director in
- 11 compliance who Sergio reported up to. And I
- believe at the time Len David was our chief
- compliance officer who Mike reported up to.
- Q. This e-mail is dated October 20, 2009,
- 15 is that right?
- 16 A. That's what it says.
- 17 Q. The subject of the e-mail is "DEA
- 18 Meeting 10-21-09," is that right?
- 19 A. That's what it says.
- Q. And it says "Len." This is you
- 21 writing. "Len, Attached please find the handout
- we prepared for tomorrow's meeting with the
- 23 DEA." Is that right?
- A. I don't recall writing this e-mail,

- 1 but that's what it says.
- Q. Okay. And it's sent by you to these
- 3 individuals, correct?
- 4 A. It appears to be.
- 5 Q. And it attaches -- you see an
- 6 attachment, "DEA Meeting 10-21-09" on the little
- 7 image there on the first page, is that right?
- 8 A. Yes. I see that.
- 9 Q. It attaches a PowerPoint presentation
- dated October 21, 2009, is that right?
- 11 A. That's what it says.
- 0. And this is the PowerPoint
- presentation you sent to the group?
- 14 A. If this is that attachment, then it
- appears to be what I must have sent.
- 16 Q. Did you create this PowerPoint
- 17 presentation?
- 18 A. I don't recall this PowerPoint,
- 19 looking at the cover page.
- Q. On the second page there's an overview
- of Henry Schein's business, is that right?
- 22 A. That's what it appears to be.
- Q. And if you turn to the third page of
- 24 the PowerPoint, it lists under "Active

- 1 Ingredients" -- do you see where I'm at?
- 2 A. Yes.
- Q. Okay. It says something strikingly
- 4 similar, "All quantities and values calculated
- 5 and used in this system are at the active
- 6 ingredient level," is that right?
- 7 MR. MONTMINY: Object to form.
- 8 A. That's what it says. So I don't
- 9 remember putting this document together, I don't
- 10 remember if there was input from our legal team,
- 11 so I would like to talk to my lawyer to see what
- 12 I can discuss or -- I don't remember this
- document or the reason it being put together.
- 14 BY MR. ELSNER:
- Q. Well, that's what's written in the
- 16 PowerPoint presentation, right, that under
- 17 Active Ingredients it says "All quantities and
- 18 values calculated and used in this system are at
- 19 the active ingredient level"? Is that what it
- 20 says?
- MS. MILLER: Mike, let's take a break.
- 22 He's asked to confer. He's asked to confer
- 23 about privilege issues.
- MR. ELSNER: All right. We'll go off

- 1 the record. I generally do not -- the
- 2 conversation needs to be limited to privilege
- 3 issues and not a conversation about the
- 4 document.
- 5 MS. MILLER: Understood. Understood.
- 6 THE VIDEOGRAPHER: We're going off the
- 7 record at 9:29 a.m.
- 8 (Whereupon, a recess was taken.)
- 9 THE VIDEOGRAPHER: We're back on the
- 10 record at 9:42 a.m.
- 11 BY MR. ELSNER:
- 0. Mr. Schiavo, before we broke I was
- 13 showing you the DEA PowerPoint presentation, and
- 14 we were looking at -- and the date of this is
- October 21, 2009, and we were looking at the
- 16 third page under Henry -- the topic heading of
- 17 that page is "Henry Schein, Inc.'s Suspicious
- 18 Order Monitoring."
- 19 Do you see that?
- 20 A. I see that.
- Q. Okay. And there's a topic here, it
- 22 says "Active ingredients," and it reads "All
- 23 quantities and values calculated and used in
- this system are at the active ingredient level."

- 1 Did I read that correctly?
- 2 A. That is what it says.
- Q. Okay. So it's true, is it not, that
- 4 as of October of 2009 Henry Schein had a
- 5 suspicious order monitoring system in place that
- 6 tracked drugs by active ingredient?
- 7 MS. MILLER: Object to form.
- 8 A. That's the date of this presentation.
- 9 That's what it says. I don't remember exactly
- when we started doing that, but that's what it
- 11 says.
- 12 BY MR. ELSNER:
- Q. Okay. Meeting with the DEA was an
- important event, right?
- MR. MONTMINY: Objection to form.
- A. We met with the DEA, they asked.
- 17 BY MR. ELSNER:
- 18 Q. But you recognize that to be an
- 19 important event?
- MS. MILLER: Object to form.
- 21 A. I'm not sure what you mean by
- 22 important, but --
- 23 BY MR. ELSNER:
- Q. Well, the DEA regulated Henry Schein's

- distribution of controlled substances, correct?
- A. Henry Schein was a DEA registrant, and
- 3 there are certain regulations that as a
- 4 registrant we needed to follow.
- 5 Q. And if you don't follow those
- 6 regulations, one of the things that the DEA can
- 7 do is remove your license to sell those drugs,
- 8 correct?
- 9 MS. MILLER: Object to form.
- 10 A. We have a DEA registration. I know
- there's penalties if you don't comply with
- 12 certain regulations.
- 13 BY MR. ELSNER:
- Q. And one of those penalties could be
- 15 suspending or removing the registrant's license,
- 16 correct?
- MS. MILLER: Object to form.
- 18 A. I guess there's various degrees of
- 19 penalties.
- 20 BY MR. ELSNER:
- Q. But you understood those to be
- included among them, correct?
- MR. MONTMINY: Objection to form.
- A. I mean, it's a DEA registration, so...

- 1 BY MR. ELSNER:
- Q. Well, do you know or don't know
- 3 whether the DEA could revoke someone's license?
- 4 MS. MILLER: Object to form.
- 5 A. It's a DEA license. That could be one
- 6 of the penalties.
- 7 BY MR. ELSNER:
- Q. Do you know, or are you just guessing?
- 9 MS. MILLER: Object to form.
- 10 A. I know that if you don't follow
- 11 certain DEA regulations there's various degrees
- 12 of penalties.
- 13 BY MR. ELSNER:
- Q. And it would be important for you,
- wouldn't it, in meeting with the DEA that the
- 16 information that you told them was accurate,
- 17 right?
- MR. MONTMINY: Objection to form.
- 19 A. I don't ever recall putting anything
- together with the intent of being inaccurate.
- 21 BY MR. ELSNER:
- Q. Because -- and you were careful,
- weren't you?
- MS. MILLER: Object to form.

- 1 A. I try to be careful. But in terms of
- this document, I don't remember putting it
- 3 together.
- 4 BY MR. ELSNER:
- 5 Q. And the document says that as of this
- 6 date in October of 2009 that Henry Schein had a
- 7 suspicious order monitoring system in place that
- 8 calculated quantities and values using the
- 9 active ingredient level, correct?
- MR. MONTMINY: Objection. Form.
- 11 A. I see that it says that.
- 12 BY MR. ELSNER:
- Q. Okay. And you understand that Henry
- 14 Schein did have such a system in place, is that
- 15 right?
- MR. MONTMINY: Objection. Form.
- 17 A. I understand at some point that was an
- 18 aspect of the system.
- 19 BY MR. ELSNER:
- Q. And you have no reason to believe that
- 21 this is inaccurate, that you told the DEA
- 22 something that was not actually truthful, is
- 23 that right?
- MR. MONTMINY: Objection. Form.

- 1 A. I don't recall nor do I -- would I
- intend to be inaccurate to the DEA, but
- 3 specifically to this, I don't remember putting
- 4 this together, I don't specifically know exactly
- 5 what it was referring to, so...
- 6 BY MR. ELSNER:
- 7 Q. Here's what I'm trying to understand,
- 8 because given the way that your answers are to
- 9 me, it sounds like maybe you were telling the
- 10 DEA one thing that actually wasn't happening in
- 11 place at Henry Schein, is that true?
- MR. MONTMINY: Objection to form.
- 13 BY MR. ELSNER:
- Q. Or is it that you really, truthfully
- 15 try to make the information you told the DEA as
- 16 accurate as possible?
- MR. MONTMINY: Objection. Form.
- 18 A. Speaking for me personally, I would
- 19 not try to be inaccurate.
- 20 BY MR. ELSNER:
- Q. Okay. You would try to be truthful to
- 22 the DEA, right?
- A. I can speak for myself, yes, I would
- 24 try to be truthful.

- 1 Q. Okay. So if you turn two pages later
- 2 to the same DEA presentation, it says "Henry
- 3 Schein, Inc.'s Suspicious Order Monitoring" on
- 4 the top.
- 5 Do you see that?
- 6 A. I see that.
- 7 Q. Okay. And among the factors that the
- 8 model looks at at the end, it reads "The types
- 9 of indicators that the model will be looking for
- 10 are the customers monthly activity compared to
- 11 his: Six month average, Twelve month average,
- 12 Twelve month maximum, Twenty-four month maximum,
- and Other various trending factors." Did I read
- 14 that correctly?
- 15 A. That is what it says.
- 16 Q. Okay. So is it true that Henry Schein
- 17 had a system in place that you were monitoring a
- 18 customer's monthly purchases of controlled
- 19 substances based on the prior 6-month and prior
- 20 12-month average?
- MR. MONTMINY: Objection. Form.
- A. At the time of this meeting, I cannot
- 23 remember exactly what the system was.
- 24 BY MR. ELSNER:

- O. But this is what was written and
- presented to the DEA, correct?
- MR. MONTMINY: Objection. Form.
- 4 A. Based on that cover e-mail, this looks
- 5 like what was reviewed with the DEA.
- 6 BY MR. ELSNER:
- 7 Q. And you wouldn't try to tell the DEA
- 8 something that was untrue, right?
- 9 A. I would not intend to be untrue to the
- 10 DEA.
- 11 Q. Okay. So then it also says that the
- 12 system is looking at 12-month maximums and
- 13 24-month maximums, is that right?
- MR. MONTMINY: Objection. Form.
- 15 A. That's what it says.
- 16 BY MR. ELSNER:
- Q. Okay. And then it says "Other various
- 18 trending factors." What does other various
- 19 trending factors mean?
- 20 A. I don't recall what that's referring
- 21 to.
- Q. Who at Henry Schein set the 12-month
- 23 max and the 24-month max?
- MR. MONTMINY: Objection. Form,

- 1 outside the scope.
- 2 MR. ELSNER: Can you explain that
- 3 objection? Because I don't understand it.
- 4 MR. MONTMINY: Sure. We can have a
- 5 running objection if you want, but essentially
- 6 he's here to speak in his personal capacity.
- 7 There was no notice provided to Schein that he
- 8 was a former employee and no opportunity to
- 9 prepare for this, and as of yet you haven't
- 10 asked a single question about CVS.
- MR. ELSNER: Well, under the protocol
- 12 I don't need to separately notice it. I do need
- 13 to notify you if I intend to use a document he
- 14 hasn't seen before, which I haven't. And I
- think this is all fair game. So I'm happy to
- let you have a continuing objection to the use,
- but I don't think we need to interrupt the
- deposition with the same scope objections
- 19 throughout.
- MR. MONTMINY: Okay.
- 21 BY MR. ELSNER:
- Q. Can we go back to my question? I
- asked you if you could explain to me what the
- other various trending factors means.

- 1 A. I don't recall what that's referring
- 2 to.
- Q. Okay. And then I also asked who at
- 4 Henry Schein, to your knowledge, set the
- 5 12-month max and the 24-month maximums?
- 6 A. I don't recall who set that.
- 7 Q. Do you know what those maximums were?
- 8 A. I don't recall how that worked.
- 9 Q. You said that the suspicious order
- 10 monitoring system was only one component of the
- 11 due diligence program at Henry Schein. What
- were the others for controlled substances?
- 13 A. I mean, at a high level it was -- we
- 14 had an algorithm, or algorithms, and we had a
- due diligence process. Those were two main
- 16 parts.
- 17 O. And the algorithm is a component of
- 18 the suspicious order monitoring system, right?
- 19 A. The algorithm or algorithms were part
- of the process.
- Q. Okay. And then so the other component
- 22 to that is due diligence based on orders that
- were flagged or triggered by the suspicious
- order monitoring system, correct?

- 1 MR. MONTMINY: Objection. Form.
- 2 A. That was part of the process.
- 3 BY MR. ELSNER:
- Q. If you go two pages further under
- 5 "Standard Operating Procedures/Policies," it
- 6 says "Henry Schein Has Implemented and Enhanced
- 7 Many of Our Policies and Procedures, " and then
- 8 it lists some things, including "Suspicious
- 9 Order Monitoring Policy."
- Does this refresh your recollection
- 11 that as of 2009 the enhanced system had been put
- into place at Henry Schein with respect to
- 13 suspicious order monitoring?
- A. At the time of this meeting, I don't
- 15 recall what was in place.
- 16 O. Is that what's written in the
- 17 presentation?
- MR. MONTMINY: Object to form.
- 19 A. It says that "Henry Schein Has
- 20 Implemented and Enhanced Many of Our Policies
- 21 and Procedures."
- 22 BY MR. ELSNER:
- Q. Including the suspicious order
- 24 monitoring program, correct?

- 1 A. That is one of the sub-bullets.
- Q. And then if you go two pages further,
- 3 there's a "New Account Setup" page, and there's
- 4 a list of items that you -- one page forward.
- 5 Do you see where I'm at?
- 6 A. Okay.
- 7 Q. And this is the due diligence done for
- 8 new account setups at Henry Schein as of 2009,
- 9 is that right?
- 10 A. Again, at this time I don't exactly
- 11 recall what the processes were.
- 12 Q. But that's what's in the presentation
- 13 that you gave to the DEA?
- A. That is what's --
- MR. MONTMINY: Object to form.
- 16 A. That is what's in this presentation.
- 17 BY MR. ELSNER:
- 18 Q. Okay. And it included a customer
- 19 questionnaire for every customer ordering
- 20 controlled substances, is that right?
- 21 A. I see that's what it says there.
- Q. And did you work with that customer
- 23 questionnaire for customers while at Henry
- 24 Schein?

- 1 A. I knew of a customer questionnaire.
- Q. Did you use it?
- 3 A. Specifically the one that it's
- 4 referring to, I don't know. I know we had a
- 5 customer questionnaire that we used to guide due
- 6 diligence.
- 7 Q. Did you use it, the customer
- 8 questionnaire?
- 9 MR. MONTMINY: Objection. Form, asked
- 10 and answered.
- 11 A. At this time?
- 12 BY MR. ELSNER:
- Q. At any time.
- MR. MONTMINY: Same objection.
- 15 A. At my time at Henry Schein, I had used
- 16 a customer questionnaire to -- as a guideline
- 17 for due diligence.
- 18 BY MR. ELSNER:
- 19 Q. And you would send that questionnaire
- out to doctors and others that were ordering
- 21 controlled substances, is that right?
- 22 A. Potentially.
- Q. And you'd review those responses?
- A. Either myself or someone else on the

- 1 team would review responses.
- Q. And on the last page under "Pain
- 3 Management Clinics Due Diligence Process, " the
- 4 third bullet, it reads "Mandatory full
- 5 regulatory audit is required for final approval"
- 6 to receive controlled substances, is that right?
- 7 A. That's what it says.
- Q. Okay. And included "Inventory
- 9 controls, Security systems/protocols, Interview
- with the doctor or owner, and a Comprehensive
- 11 audit report including pictures of the facility
- 12 and background information, " is that right?
- MR. MONTMINY: Object to form.
- 14 A. That is what it says.
- 15 BY MR. ELSNER:
- Q. Were you involved in this process at
- 17 Henry Schein to collect the information for this
- 18 mandatory full regulatory audit?
- 19 A. Specifically at this time I don't
- 20 fully recall what my role is or was with doing
- 21 that.
- Q. What about later on at Henry Schein?
- A. At some point while I worked at Henry
- 24 Schein that was part of my responsibilities, to

- 1 do due diligence.
- Q. And this was a component of Henry
- 3 Schein's know your customer policies, is that
- 4 right?
- MR. MONTMINY: Object to form.
- 6 BY MR. ELSNER:
- 7 O. To collect this information?
- 8 MS. MILLER: Object to form.
- 9 MR. MONTMINY: I'd like to re-assert
- 10 my objection and make it clear that this witness
- 11 does not represent Henry Schein in this
- 12 deposition.
- MR. ELSNER: You can object. Speaking
- 14 objections are not permitted.
- 15 BY MR. ELSNER:
- 16 O. Go ahead.
- 17 A. Can you just repeat the question?
- 18 O. I had asked whether these -- reviewing
- 19 these questionnaires and reviewing the
- 20 information in the mandatory regulatory audits
- 21 is the know your customer information that was
- 22 collected at Henry Schein.
- MR. MONTMINY: Objection. Form.
- 24 A. I know at some part -- at some point

- 1 these do look like pieces of information that we
- 2 might look at for customers if doing due
- 3 diligence.
- 4 BY MR. ELSNER:
- 5 Q. If you turn back to the PowerPoint
- 6 presentation that you gave at the conference, on
- 7 Page 10 under the --
- 8 MR. MONTMINY: Object to the form of
- 9 that statement.
- 10 BY MR. ELSNER:
- 11 Q. Page 10 under "The Pend Process." Do
- 12 you see where I'm at?
- 13 A. Page 10, "The Pend Process."
- 0. Under "Know Your Customer" in the
- middle, do you see where I am?
- 16 A. I see where you are.
- 0. It says "questionnaire is sent to
- 18 account. Once received back and we are still
- 19 not comfortable releasing the order, a more
- 20 extensive questionnaire is sent out. If still
- 21 not comfortable, a phone interview or site visit
- 22 will be scheduled if necessary." Those are the
- 23 components in part of the know your customer
- 24 process at Henry Schein, is that correct?

- 1 MR. MONTMINY: Object to form.
- 2 A. I see that written there. In
- 3 reference to know your customer policy, I don't
- 4 recall a know your customer policy that we had.
- 5 BY MR. ELSNER:
- 6 O. But that's what's written here?
- 7 A. "'Know Your Customer' questionnaire is
- 8 sent to account" I see is what is written there.
- 9 Q. Did Henry Schein have a know your
- 10 customer policy in 2010?
- MR. MONTMINY: Objection. Form.
- 12 A. I don't recall.
- 13 BY MR. ELSNER:
- 14 Q. If you turn to Page 13 of the
- 15 PowerPoint presentation for the Buzzeo
- 16 conference, under -- the topic there is
- 17 "Questionnaires," is that right?
- 18 A. Questionnaires, yes.
- 19 Q. Okay. And there are "3 categories of
- 20 questionnaires developed, "it reads. "Know your
- 21 customer" is one, correct?
- 22 A. I see that.
- Q. "Self Assessment Questionnaire" and
- 24 "Extensive Site Visit Questionnaire," is that

- 1 right?
- MS. MILLER: Object to form.
- 3 A. I see where that's written.
- 4 BY MR. ELSNER:
- 5 Q. And it lists some sample questions at
- 6 the bottom of the PowerPoint presentation,
- 7 correct?
- 8 A. I see that.
- 9 Q. It includes "Do you accept medical
- insurance?" And "What percentage pay insurance"
- 11 versus pay in cash? Is that one of the sample
- 12 questions?
- 13 A. "Cash, credit," yes.
- Q. Okay. And "Do you dispense...to
- out-of-state patients" is another inquiry,
- 16 correct?
- 17 A. I see that as one of the questions
- 18 listed.
- 19 Q. All right. On Page 14, the next page,
- it refers to site visits. Do you see that?
- 21 A. "Site visits consist of." I see that.
- Q. Okay. And they're "Conducted on 'high
- 23 risk' accounts and accounts that we are not
- 24 comfortable with after initial due diligence,"

- 1 is that right?
- MS. MILLER: Object to form.
- A. I don't know if it was always the case
- 4 for just high-risk accounts, but I see where it
- 5 says here on high-risk accounts.
- 6 BY MR. ELSNER:
- 7 Q. Was it sometimes for other accounts,
- 8 not high-risk accounts?
- 9 A. I don't remember all the instances we
- 10 did site visits.
- 11 Q. The process, under item 2, could take
- 12 anywhere from 6 to 8 weeks to complete, is that
- 13 right?
- MS. MILLER: Object to form.
- 15 A. I don't remember the exact time frame
- 16 it took to complete.
- 17 BY MR. ELSNER:
- 18 Q. That's what it says here, though,
- 19 right?
- 20 A. It says "Initially, the process could
- 21 took anywhere from six to eight weeks to
- 22 complete."
- Q. Okay. And on the bottom it says,
- 24 "Site visits consist of," and it lists a number

- 1 of things, including observing patients in the
- 2 waiting room. Is that one?
- MR. MONTMINY: Objection. Form.
- 4 A. That's what it says.
- 5 BY MR. ELSNER:
- 6 Q. Cars in the parking lot?
- 7 A. That is what it says.
- Q. What were you looking for for cars in
- 9 the parking lot, what kind of cars?
- MR. MONTMINY: Object to form.
- 11 A. Could be anything from was it a full
- 12 parking lot to out of state license plates.
- 13 BY MR. ELSNER:
- Q. Because out of state license plates
- may be an indicator of diversion, is that right?
- MS. MILLER: Object to form.
- 17 A. No, not necessarily.
- 18 BY MR. ELSNER:
- 19 Q. It could be a red flag?
- MS. MILLER: Object to form.
- 21 A. It was one of the things that we
- looked at. Could be nothing.
- 23 BY MR. ELSNER:
- Q. Could be nothing, could be something,

- 1 right?
- MS. MILLER: Object to form.
- 3 BY MR. ELSNER:
- 4 Q. Yes, no?
- A. I can't say. It's case-by-case.
- Q. It's on the criteria that you listed,
- 7 is that right?
- 8 MS. MILLER: Object to form.
- 9 A. It's listed as one of the elements we
- 10 looked at.
- 11 BY MR. ELSNER:
- 12 Q. Okay. "Inventory reconciliations."
- 13 What's that?
- 14 A. I don't recall exactly what that is,
- 15 but some kind of inventory review.
- 16 Q. Inventory of what, the controlled
- 17 substances they had on hand?
- MR. MONTMINY: Objection to form.
- 19 A. I think just inventory in general.
- 20 BY MR. ELSNER:
- 21 O. The site visit also consisted of
- 22 security controls, is that right?
- MR. MONTMINY: Objection. Form.
- A. That's what it says.

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1 BY MR. ELSNER:
2 Q. Pictures?
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- MR. MONTMINY: Same objection.
- 4 A. It says that there.
- 5 BY MR. ELSNER:
- 6 Q. Observing the surrounding
- 7 neighborhood?
- MR. MONTMINY: Object to form.
- 9 A. That's what it says.
- 10 BY MR. ELSNER:
- 11 Q. And "Recordkeeping/Protocols"?
- MR. MONTMINY: Object to form.
- 13 BY MR. ELSNER:
- 14 Q. Correct?
- MS. MILLER: Object to form.
- 16 A. That's what it says.
- 17 BY MR. ELSNER:
- 18 Q. These were in elements of the know
- 19 your customer or site visit review. They were
- 20 part of the presentation that you gave in this
- 21 conference, correct?
- MR. MONTMINY: Objection. Form.
- 23 A. That is what it says in this document.
- 24 BY MR. ELSNER:

- 1 Q. You said you had a copy of this
- document. Where do you maintain a copy of this
- 3 presentation?
- 4 MR. MONTMINY: Objection. Form.
- 5 A. I don't know.
- 6 BY MR. ELSNER:
- 7 Q. Was it home, or is it at work?
- MR. MONTMINY: Objection. Form.
- 9 A. I don't recall. I haven't seen this
- 10 in a long time.
- 11 BY MR. ELSNER:
- 12 Q. Do you recall telling me in the
- beginning that you had a copy of this
- 14 presentation?
- MR. MONTMINY: Objection. Form.
- 16 A. I recall saying I might have a copy.
- 17 BY MR. ELSNER:
- 18 Q. If you had a copy, where would it be?
- MS. MILLER: Object to form.
- MR. MONTMINY: Object to form.
- A. I don't know.
- 22 MR. ELSNER: I'd ask that counsel
- 23 speak with the witness and see if they can
- locate a copy of the presentation. If they can,

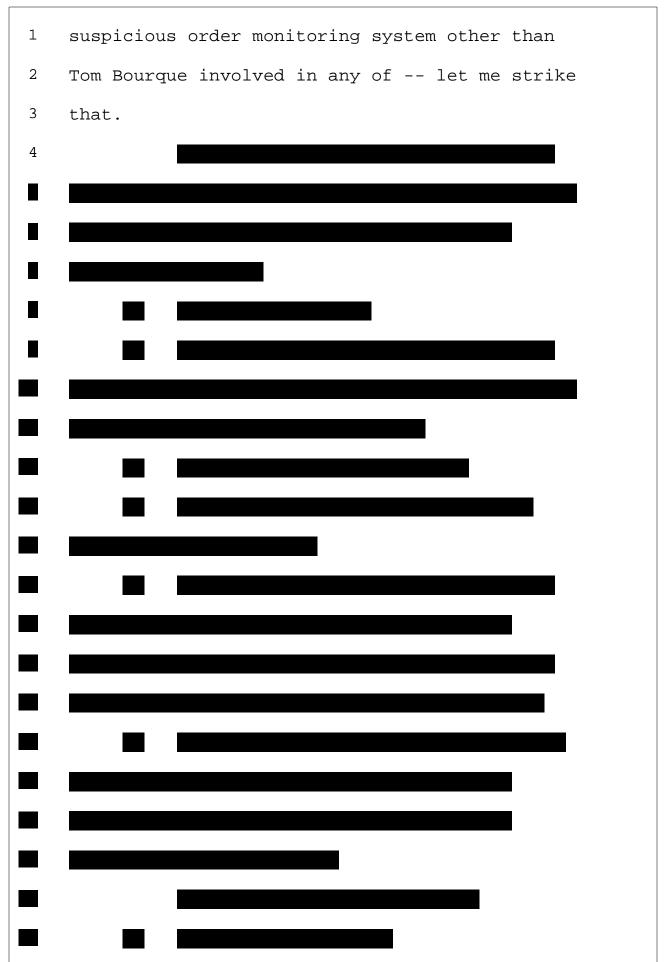
- 1 if they produce it to us.
- MS. MILLER: We can discuss it off the
- 3 record.
- 4 BY MR. ELSNER:
- 5 Q. When did you join CVS?
- 6 A. 2012.
- 7 Q. And what were you hired at CVS to do?
- 8 MS. MILLER: Object to form.
- 9 BY MR. ELSNER:
- 10 Q. As you understand it.
- 11 A. I know some of my early projects were
- working on a compliance review program as well
- as some pharmacy initiatives that the company
- 14 was working on.
- 15 Q. Your title was senior compliance
- 16 manager when you were hired in August of 2012,
- 17 is that right?
- 18 A. That sounds right.
- 19 Q. Did you replace someone when you were
- 20 hired by CVS, or was this a new position?
- MS. MILLER: Object to form.
- 22 A. I believe the position that I was
- 23 going into, I don't believe I was replacing
- 24 someone in that position.

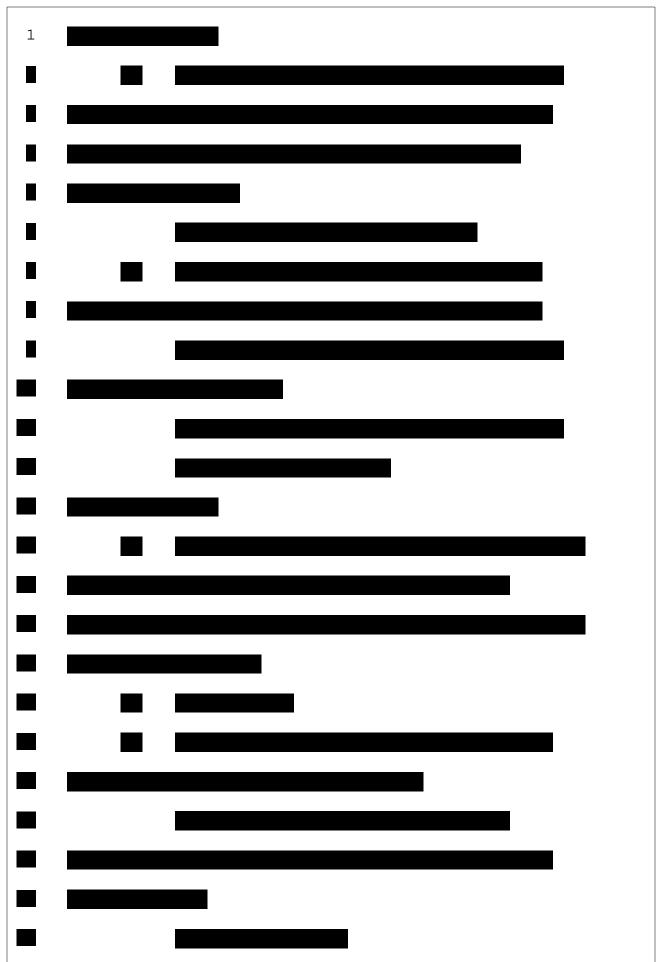
- 1 BY MR. ELSNER:
- Q. Okay. Why did you decide to leave
- 3 Henry Schein for CVS?
- 4 A. I don't recall all the reasons, but I
- 5 thought it was a good opportunity.
- 6 Q. Tell me about the process. Did you
- 7 see an advertisement and apply to it, or did you
- 8 send out a resume to CVS? How was it that you
- 9 came to be hired by CVS, as you understand it?
- MS. MILLER: Object to form.
- 11 A. I believe I was contacted by CVS, and
- 12 had conversations through them reaching out.
- 13 BY MR. ELSNER:
- Q. Who was it that contacted you from
- 15 CVS?
- 16 A. I don't remember exactly who it was.
- 17 It was someone from the talent acquisitions
- 18 department.
- 19 Q. And did they meet you at a conference,
- or did they cold call you?
- MS. MILLER: Object to form.
- A. I'm not sure what caused them to reach
- 23 out.
- 24 BY MR. ELSNER:

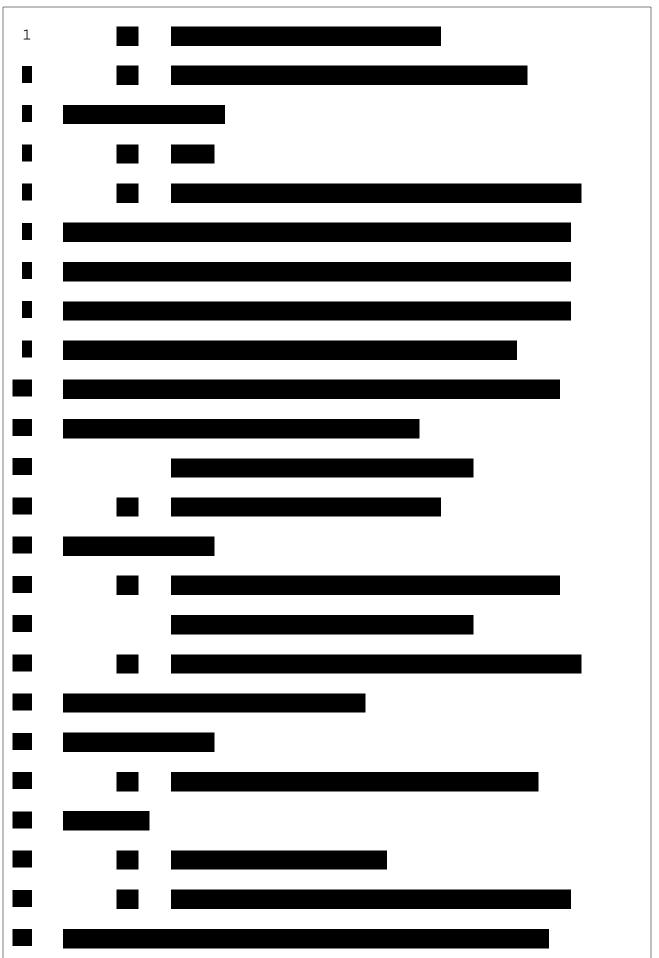
- Q. Were you working at Henry Schein at
- 2 the time?
- 3 A. Yes.
- 4 Q. Had you met anyone from CVS as part of
- 5 your work in the area of compliance for Henry
- 6 Schein?
- 7 MS. MILLER: Object to form.
- 8 A. Not that I recall.
- 9 BY MR. ELSNER:
- 10 Q. Did they tell you that they were
- 11 looking to fill a particular position at CVS?
- MS. MILLER: Object to form.
- 13 A. I believe they called me about a
- 14 specific position.
- 15 BY MR. ELSNER:
- Q. What was your understanding of the
- 17 position that they called you about?
- MS. MILLER: Object to form.
- 19 A. I don't recall.
- 20 BY MR. ELSNER:
- Q. At the time you were in Greenville,
- 22 South Carolina, is that right?
- A. Yes, I believe so.
- Q. Were you hired by CVS Pharmacy or CVS

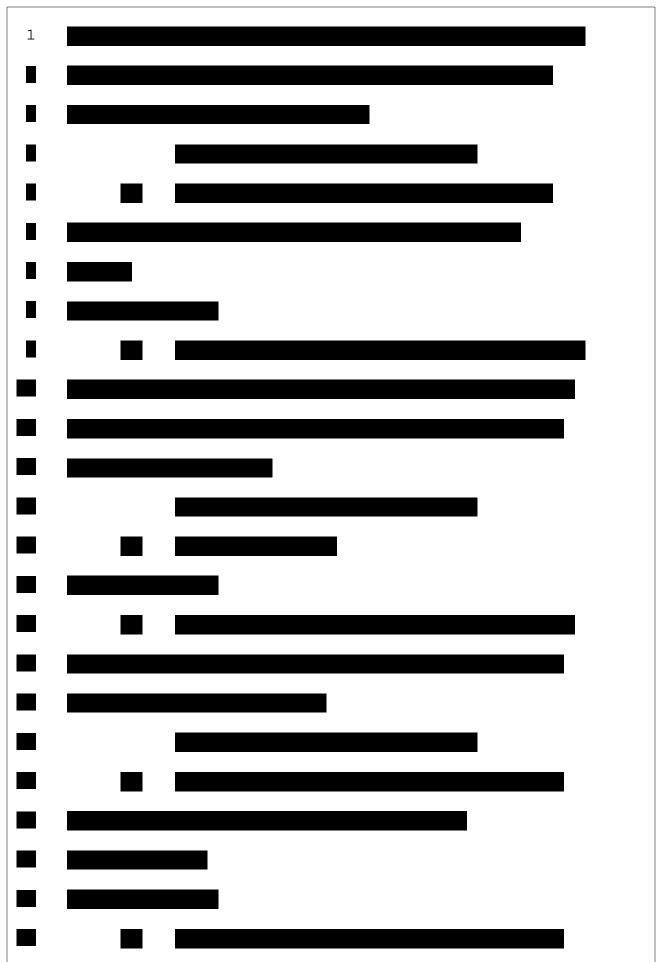
- 1 Health? What entity of CVS hired you?
- MS. MILLER: Object to form.
- A. I don't recall. It was CVS.
- 4 BY MR. ELSNER:
- 5 Q. Who was your supervisor at CVS when
- 6 you were hired in August of 2012?
- 7 A. It was Tom Bourque.
- Q. What was Tom Bourque's position?
- 9 A. At the time I believe he was the
- 10 director of regulatory compliance.
- 11 Q. Did he interview you for the position?
- 12 A. Yes.
- Q. Did anyone else participate in the
- 14 interview process?
- 15 A. Yes.
- 16 O. Who else?
- 17 A. I can recall meeting with talent
- 18 acquisition, and then other members of the, at
- 19 the time, the regulatory compliance team.
- 0. What are their names?
- 21 A. Aside from Tom, I remember Karen
- 22 DiStefano.
- Q. Any others?
- 24 A. And Susan Delmonico.

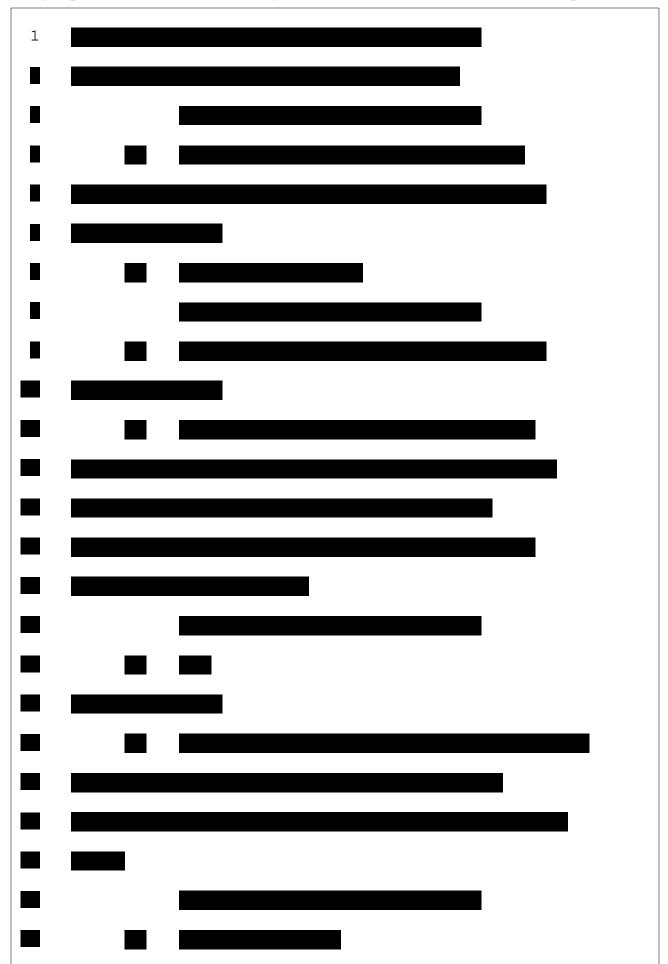
- Q. What is Susan Delmonico's position?
- 2 A. At the time of the interview?
- Q. Yes.
- 4 A. I don't exactly recall what her role
- 5 was.
- Q. Did you have any people who reported
- 7 to you when you were hired by CVS in August of
- 8 2012?
- 9 A. There was one person.
- 10 Q. Who was that?
- 11 A. Cassandra Castro.
- 12 O. And what was her title and what were
- 13 her job responsibilities?
- MS. MILLER: Object to form.
- A. At that time I don't recall.
- 16 BY MR. ELSNER:
- 17 Q. What was she doing for you under your
- 18 supervision?
- 19 A. I think at the time I was hired, I
- think she was also learning the company as I
- 21 was. And then I know one of her big
- responsibilities was the regulatory review
- 23 program.
- Q. Was anyone who was involved in the

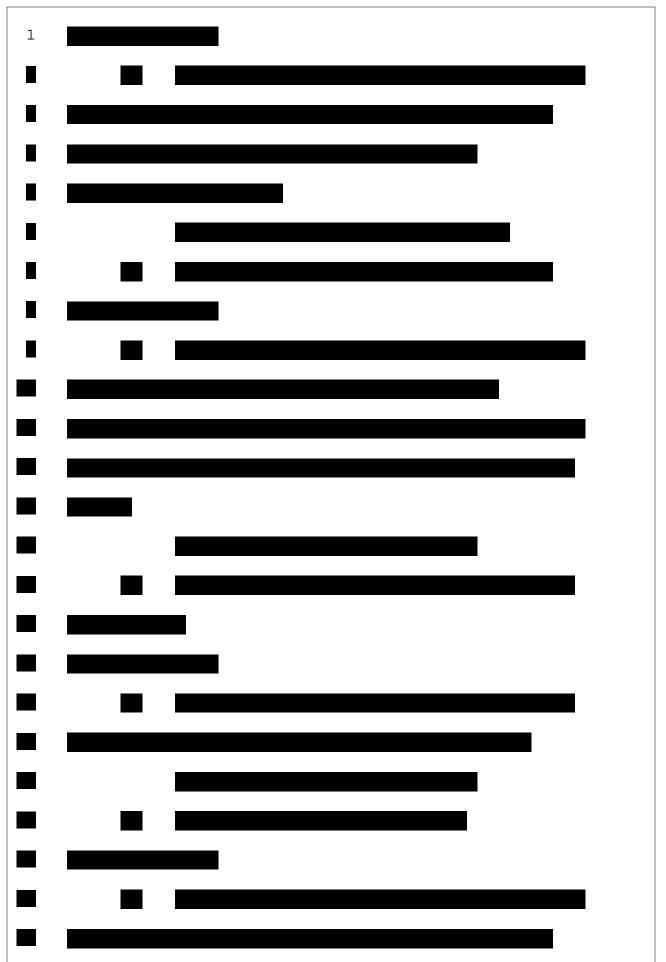


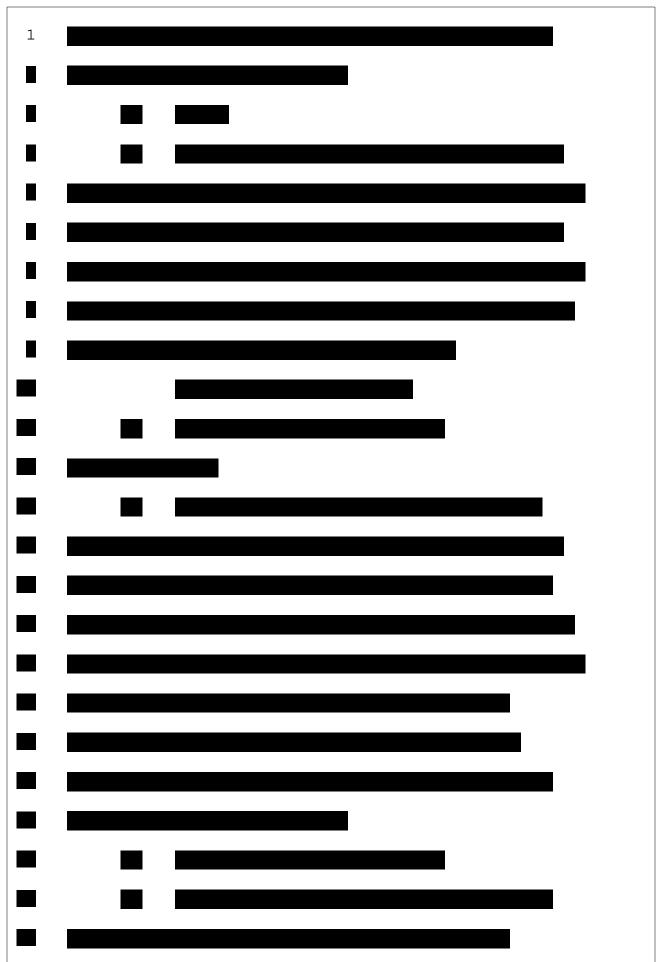


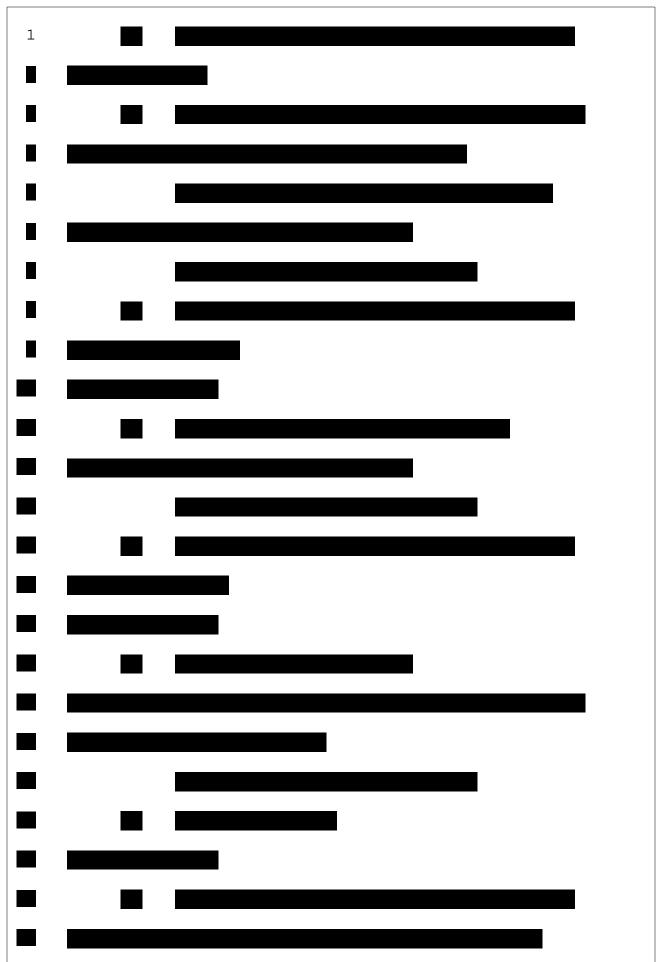


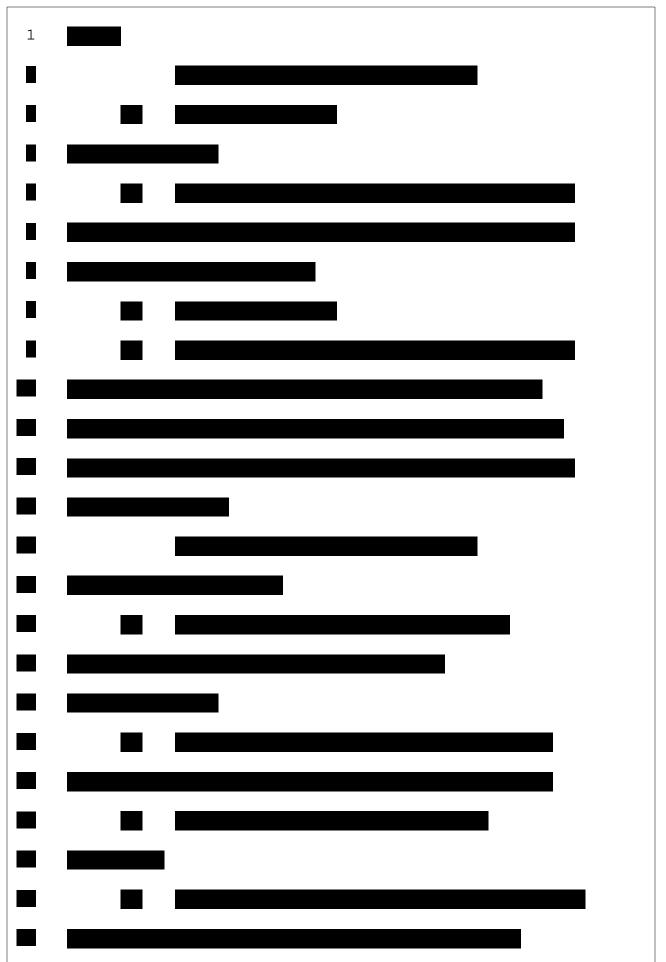


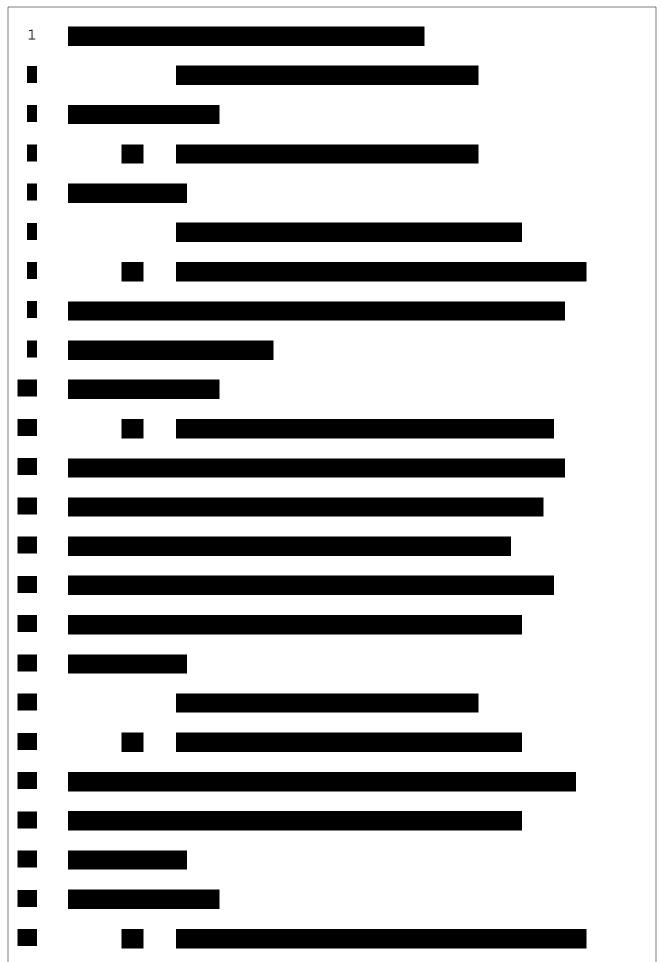


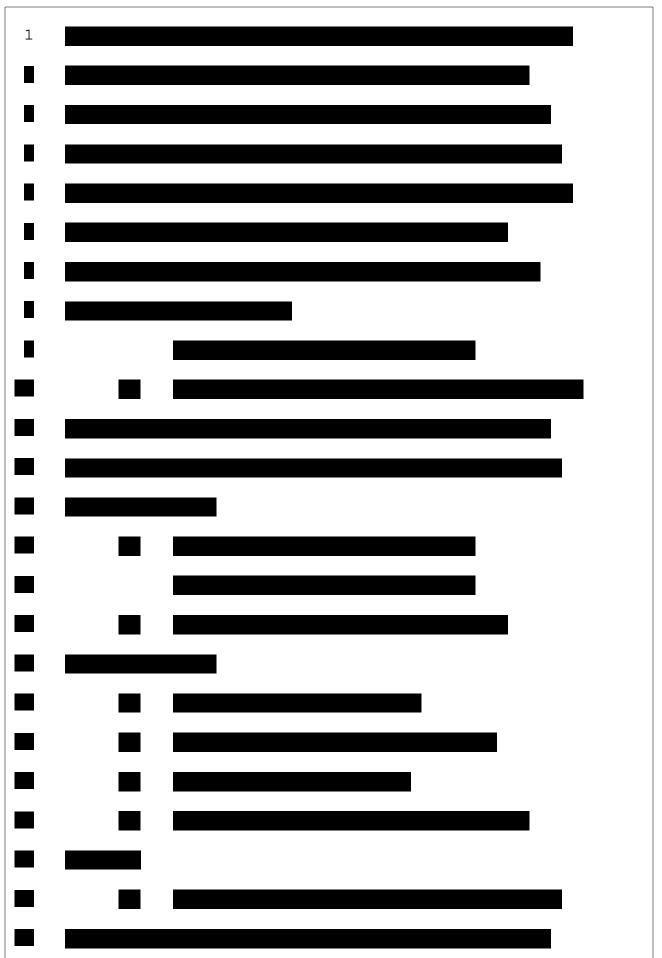


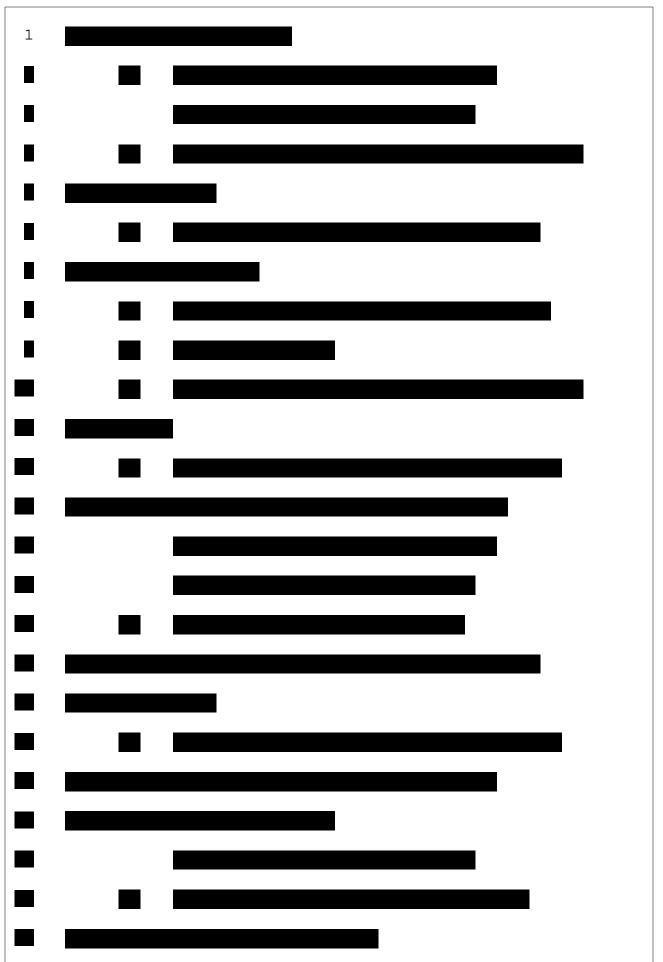










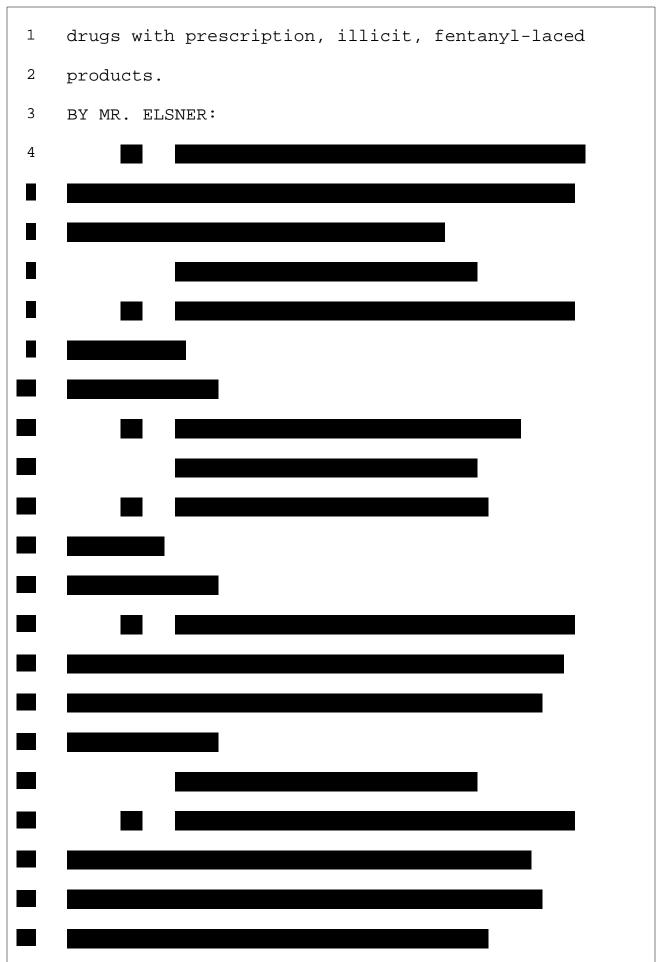


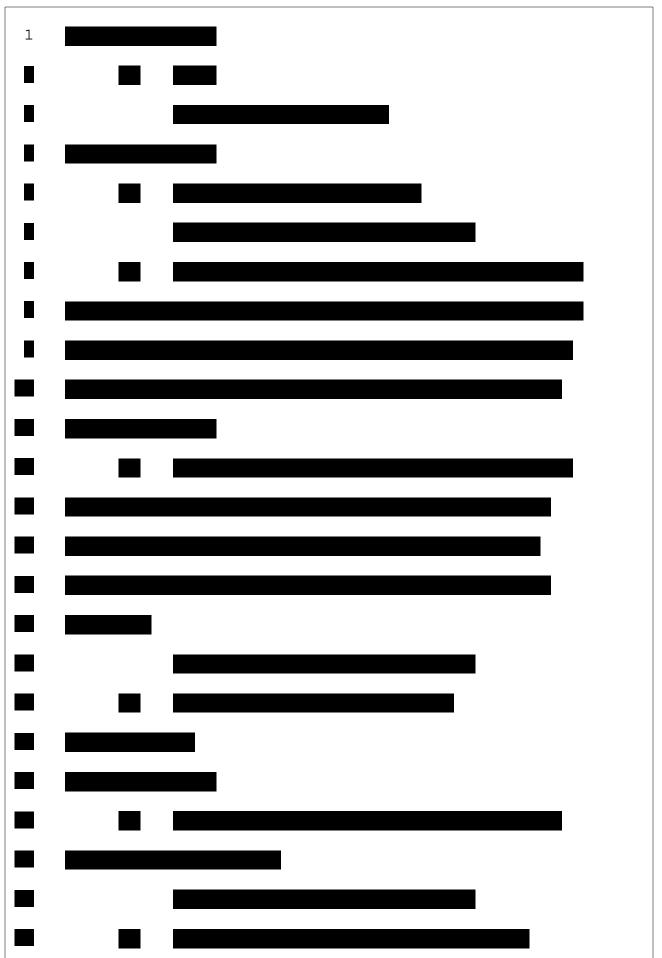
1 16 Are you on any kind of medication that 17 would impair your ability to remember? Did you take any kind of medication today that would 18 impact your memory? 19 20 MS. MILLER: I'm going to object to 21 that question. That's an improper questioning 22 of the witness. 23 MR. ELSNER: It's not. I need to 24 know. That's a standard deposition question at

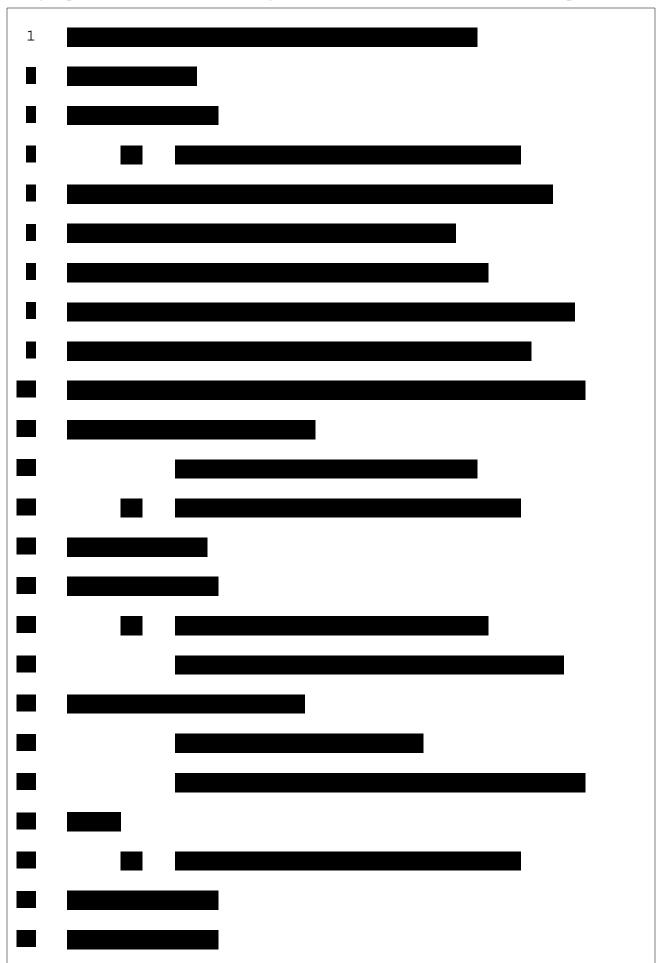
- 1 every deposition.
- 2 BY MR. ELSNER:
- Q. Are you on any medications today?
- 4 MS. MILLER: I object. It's an
- 5 inappropriate question.
- 6 BY MR. ELSNER:
- 7 Q. You can answer. She's raised an
- 8 objection.
- 9 A. I'm not on any medication.
- 10 Q. Thank you.
- 11 Would you agree with me that there's
- 12 an opioid crisis in the United States?
- MS. MILLER: Object to form.
- 14 A. I know that there are people who abuse
- 15 drugs.
- 16 BY MR. ELSNER:
- Q. Do you understand that the number of
- 18 people that -- well, do you know that there are
- 19 people who abuse prescription drugs including
- 20 opioids?
- MS. MILLER: Object to form.
- 22 A. I am aware there are people who have
- used opioids that have led in an overdose. I am
- 24 aware of that.

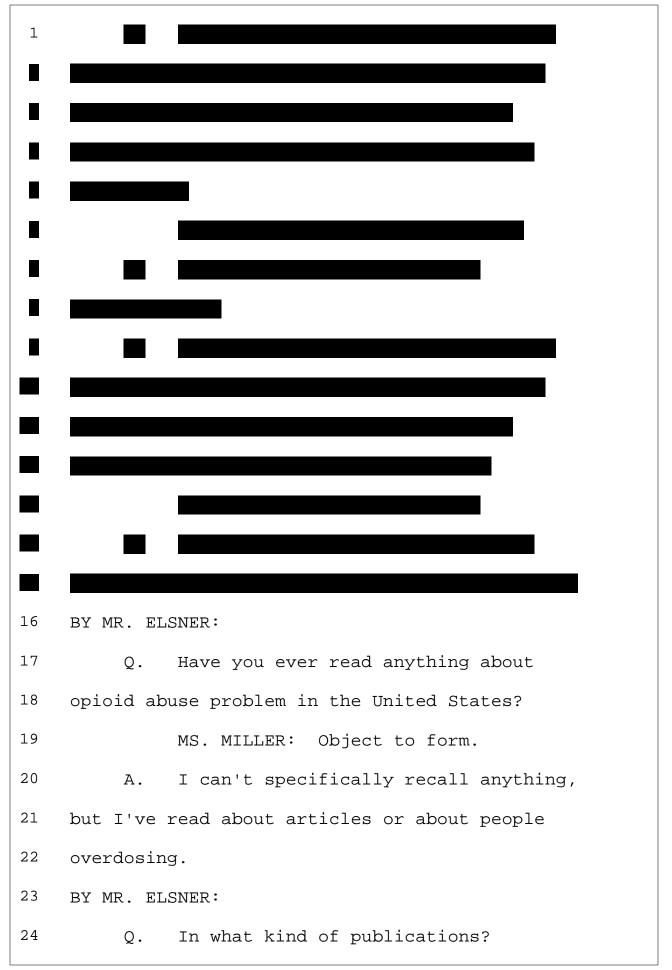
- 1 BY MR. ELSNER:
- Q. Are you aware that the DEA and certain
- 3 government officials have referred to this
- 4 overdose that people are acquiring from opioids
- 5 as an epidemic?
- 6 MS. MILLER: Object to form.
- 7 A. I am not aware that I've heard the
- 8 term epidemic. I'm not aware that that is
- 9 specifically to prescription medications.
- 10 BY MR. ELSNER:
- 11 Q. So you're not aware of whether there's
- 12 an opioid epidemic in the United States today?
- MS. MILLER: Object to form.
- 14 A. I think, like I said, I'm aware that
- there are people who abuse drugs.
- 16 BY MR. ELSNER:
- Q. Well, certainly there are people who
- 18 abuse drugs. I'm asking a much more different
- 19 and targeted question.
- 20 Are you aware that the number of
- 21 people that have abused opioids has risen to the
- 22 point of reaching an epidemic proportion in the
- 23 United States?
- MS. MILLER: Object to form.

- 1 MR. DAWSON: Objection.
- 2 A. Well, you keep using the term
- 3 "epidemic." I am aware that there are people
- 4 who abuse prescription medications, illicit
- 5 drugs such as heroin. I'm aware that people
- 6 have overdosed on drugs.
- 7 BY MR. ELSNER:
- Q. And you understand that's a huge
- 9 problem in the United States?
- MS. MILLER: Object to form.
- 11 BY MR. ELSNER:
- 12 Q. Do you agree with that or disagree
- 13 with that?
- MS. MILLER: Object to form.
- 15 A. I would agree that any time that
- 16 someone passes away that it's not something I'd
- 17 want to see.
- 18 BY MR. ELSNER:
- 19 Q. Well, for sure.
- But do you agree that it's a huge
- 21 problem?
- MS. MILLER: Object to form.
- A. I'm not sure what you mean by "a huge
- 24 problem." I'm aware that people overdose on









- 1 A. I've seen it on the news, online,
- 2 newspaper.
- Q. Do you get a newspaper at your house,
- 4 or do you read online newspapers?
- 5 A. I mean, I obtain news through
- 6 different sources.
- 7 Q. I'm trying to understand the sources.
- 8 Do you get the New York Times or the
- 9 Boston Globe, or do you get any local paper to
- 10 your home?
- 11 A. I believe I might get the Town of
- 12 Medway news or something.
- Q. Okay. What's your best recollection
- of any publication that you've read an article
- about the opioid overdoses in the United States?
- MS. MILLER: Object to form.
- 17 A. I can't remember a specific article
- 18 that I've read.
- 19 BY MR. ELSNER:
- 20 Q. Have you written any -- have you read
- 21 any books about opioid abuse?
- MR. MONTMINY: Object to form.
- A. Not that I recall.
- 24 BY MR. ELSNER:

- 1 Q. Seen any movies about it?
- MS. MILLER: Object to form.
- 3 A. I have seen movies in which characters
- 4 have overdosed on medications or drugs.
- 5 BY MR. ELSNER:
- 6 Q. Opioids?
- 7 MS. MILLER: Object to form.
- 8 A. Specifically, I don't recall a
- 9 specific movie that comes to mind. But I've
- seen movies where part of the plot are people
- 11 die of drug overdoses.
- 12 BY MR. ELSNER:
- Q. Do you understand that more people
- died of a drug overdose from a prescription drug
- than died in a car accident in recent years?
- MS. MILLER: Object to form.
- 17 A. I don't believe I'd heard that before.
- 18 BY MR. ELSNER:
- 19 Q. Did you know that overdose from
- 20 prescription drugs has been the leading cause of
- 21 death in the United States?
- MS. MILLER: Object to form.
- 23 A. I don't believe I specifically knew
- 24 that.

- 1 BY MR. ELSNER:
- Q. I'm going to show you what we marked
- 3 as Exhibit 8.
- 4 (Whereupon, CVS-Schiavo-8 was marked
- for identification.)
- 6 BY MR. ELSNER:
- 7 Q. This is the PowerPoint presentation
- 8 from the DEA. This is MR 3. This is from
- 9 September of 2012 in Long Island, New York.
- 10 This is the conference that you attended, the
- 11 DEA conference that you attended. And this
- 12 presentation was put together by Joseph
- 13 Rannazzisi who is the deputy assistant
- 14 administrator of the DEA.
- Do you see that on the first page?
- MR. MONTMINY: Object to form.
- 17 A. I see that.
- 18 BY MR. ELSNER:
- 19 Q. I want you to turn to the fourth page
- of the document, and it says "Commonly Abused
- 21 Controlled Pharmaceuticals."
- Do you see that?
- A. I see where it says that.
- Q. And you're aware, are you not, that

- 1 hydrocodone was one of the commonly abused
- 2 pharmaceuticals?
- MS. MILLER: Object to form.
- 4 A. I am aware that hydrocodone is one of
- 5 the drugs that someone can abuse.
- 6 BY MR. ELSNER:
- 7 Q. Are you aware that it's a commonly
- 8 abused controlled substance?
- 9 MS. MILLER: Object to form.
- 10 A. I don't know what you mean by common,
- 11 but I'm aware that it can be abused.
- 12 BY MR. ELSNER:
- Q. As well as OxyContin and oxycodone,
- would you agree?
- MS. MILLER: Object to form.
- 16 A. I am aware that those are drugs that
- 17 can be abused.
- 18 BY MR. ELSNER:
- 19 Q. Okay. I'm going to have you turn --
- MR. ELSNER: Can we go off the record
- 21 for about 15 seconds?
- THE VIDEOGRAPHER: We're going off the
- 23 record at 10:38 a.m.
- (Whereupon, a recess was taken.)

- 1 THE VIDEOGRAPHER: We're back on the
- 2 record at 10:55 a.m.
- 3 BY MR. ELSNER:
- Q. Mr. Schiavo, I'm going to ask you to
- 5 go to the next tab which you now have in front
- of me from this PowerPoint that the DEA
- 7 presented at the conference you attended, and it
- 8 describes the "Economic Impact the Cascading
- 9 Effect." That's the title of the slide, is that
- 10 correct?
- MS. MILLER: Object to form.
- 12 A. That is what the slide says.
- 13 BY MR. ELSNER:
- Q. It says that in 2006 the estimated
- 15 cost in the United States from non-medical use
- of prescription opioids was \$53.4 billion. Did
- 17 I read that correctly?
- 18 A. I see where it says that.
- 19 Q. And it lists five drugs on the bottom
- which account for two-thirds of the economic
- 21 burden.
- Do you see that?
- A. I don't see where it says that they
- 24 account for two-thirds, but I see drugs listed

- 1 at the bottom.
- There, it says it, yes.
- Q. And those drugs include OxyContin,
- 4 oxycodone, hydrocodone, among others, correct?
- 5 MS. MILLER: Object to form.
- 6 A. It looks like there's two other drugs
- 7 listed than you named.
- 8 BY MR. ELSNER:
- 9 Q. And it includes all of those, correct?
- 10 A. That's what it says.
- MS. MILLER: Object to form.
- 12 BY MR. ELSNER:
- Q. And these are drugs that were
- 14 dispensed by CVS pharmacies, correct?
- MS. MILLER: Object to form.
- 16 A. I did not -- I didn't work for CVS in
- 17 2006. I can't answer that.
- 18 BY MR. ELSNER:
- 19 Q. Were these drugs that were dispensed
- 20 by CVS in 2012 when you joined CVS?
- MS. MILLER: Object to form.
- 22 A. I can't say for sure that all of these
- were.
- 24 BY MR. ELSNER:

- 1 Q. Hydrocodone is among the drugs that
- were distributed by CVS when you joined them in
- 3 2012, correct?
- 4 MS. MILLER: Object to form.
- 5 A. Hydrocodone was one of the drugs that
- 6 pharmacies dispensed in 2012.
- 7 BY MR. ELSNER:
- Q. And it was also a drug that CVS
- 9 distributed to its own pharmacies in 2012,
- 10 correct?
- MS. MILLER: Object to form.
- 12 A. I do believe some of our distribution
- centers distributed hydrocodone to pharmacies.
- 14 BY MR. ELSNER:
- Q. Okay. If you turn to the next tab,
- 16 the next Post-it, it says "Emergency Room Data
- 17 2004 to 2009."
- Do you see that?
- 19 A. I see that.
- Q. Okay. And it reads the increase of
- 21 98.4 percent of ER visits attributable to
- 22 pharmaceuticals alone.
- Did I read that correctly?
- A. I see where it says that.

- Q. Okay. And beneath that it says,
- 2 "Prescription drugs most frequently implicated:
- Opiates/opioids pain relievers, and it lists
- 4 "Oxycodone products 242.2 percent increase,"
- 5 correct? Is that what it says?
- 6 MS. MILLER: Object to form.
- 7 A. It looks like that's what it says.
- 8 BY MR. ELSNER:
- 9 Q. Between 2004 and 2009 for hydrocodone
- 10 there was 124.5 percent increase in ER visits,
- 11 correct?
- MS. MILLER: Object to form.
- 13 BY MR. ELSNER:
- Q. Is that what it says?
- MS. MILLER: Object to form.
- 16 A. Can you reread what part you were
- 17 reading.
- 18 BY MR. ELSNER:
- 19 Q. So we're talking about emergency room
- 20 data from 2004 to 2009, right?
- 21 A. Yes.
- Q. And we're talking about increases in
- 23 ER visits attributable to those pharmaceuticals.
- 24 Are you with me?

- 1 MS. MILLER: Object to form.
- 2 A. I see the top bullet.
- 3 BY MR. ELSNER:
- 4 Q. Now we're talking about, we're
- 5 breaking it down, "Prescription Drugs most
- 6 frequently implicated: Opiates/Opioids pain
- 7 relievers, " and it lists hydrocodone products as
- 8 124.5 percent increase.
- 9 Do you see that?
- MS. MILLER: Object to form.
- 11 A. I see where it lists hydrocodone and
- 12 124.5 percent increase.
- 13 BY MR. ELSNER:
- Q. Okay. If you go to the next sticky,
- there's been an increase and rise in poisoning
- 16 deaths from opioids and analgesics, correct,
- 17 from 1999 through 2007? Do you see that?
- MS. MILLER: Object to form.
- 19 A. I see the chart.
- 20 BY MR. ELSNER:
- Q. Okay. Were you aware prior to this
- 22 conference that there was this rising death --
- poisoning deaths from opioids?
- MS. MILLER: Object to form.

- 1 A. I don't believe I was aware of this
- 2 exact data in this chart.
- 3 BY MR. ELSNER:
- Q. Okay. If you go to the next tab, the
- 5 title is "Number of Forensic Cases, 2001 to
- 6 2010."
- 7 Do you see that?
- 8 MS. MILLER: Object to form.
- 9 A. I see that on the slide.
- 10 BY MR. ELSNER:
- 11 Q. And you see in 2001 there's sort of --
- 12 if you just look at the hydrocodone tab, which
- is the green. Are you with me? In 2010 it's
- 14 slightly over 10,000, correct?
- MS. MILLER: Object to form.
- 16 BY MR. ELSNER:
- 17 Q. In 2001, slightly over 10,000?
- 18 A. It looks like that's what the chart is
- 19 indicating.
- Q. Okay. And that by 2010 for
- 21 hydrocodone there's been a 253 percent increase
- in forensic cases, correct?
- MS. MILLER: Object to form.
- A. I see that on the chart. I am not

- 1 sure what's meant by "forensic cases," though.
- 2 I'm not sure what this is saying.
- 3 BY MR. ELSNER:
- Q. Okay. Were you aware that there had
- 5 been a 250 percent increase in hydrocodone
- 6 overdoses from 2001 to 2010 before this
- 7 conference?
- 8 MS. MILLER: Object to form.
- 9 A. Yeah, I'm not exactly sure what
- 10 forensic cases mean, and I'm not sure, so I
- 11 can't say I know what that 253 percent --
- 12 BY MR. ELSNER:
- 0. You don't know that forensic cases
- 14 refers to an overdose?
- MS. MILLER: Object to form.
- 16 BY MR. ELSNER:
- 17 Q. What's your understanding of the word
- 18 forensic?
- 19 A. Not exactly sure what the definition
- 20 is.
- O. Forensic refers to death.
- MS. MILLER: Object to form.
- 23 BY MR. ELSNER:
- Q. You don't know?

- 1 A. I don't know the exact definition.
- Q. If you go to the next sticky, sort of
- a cover page, an introductory page, it reads
- 4 that the most commonly prescribed prescription
- 5 medicine is hydrocodone/acetaminophen.
- 6 Did I read that correctly?
- 7 A. That looks to be what it says.
- Q. Okay. Were you aware prior to this
- 9 conference that hydrocodone/acetaminophen was
- 10 the most commonly prescribed prescription
- 11 medicine in the United States?
- MS. MILLER: Object to form.
- 13 A. I don't recall if I knew that.
- 14 BY MR. ELSNER:
- 15 Q. If you go to the next tab, which is on
- 16 the very next page, the title is the "Top Five
- 17 Prescription Drugs Sold in the United States."
- 18 Do you see that? Is that what the title says?
- 19 A. That is what the title says.
- Q. Okay. And do you see that hydrocodone
- 21 is significantly higher than all the other
- 22 drugs, prescription drugs, sold in the United
- 23 States?
- MS. MILLER: Object to form.

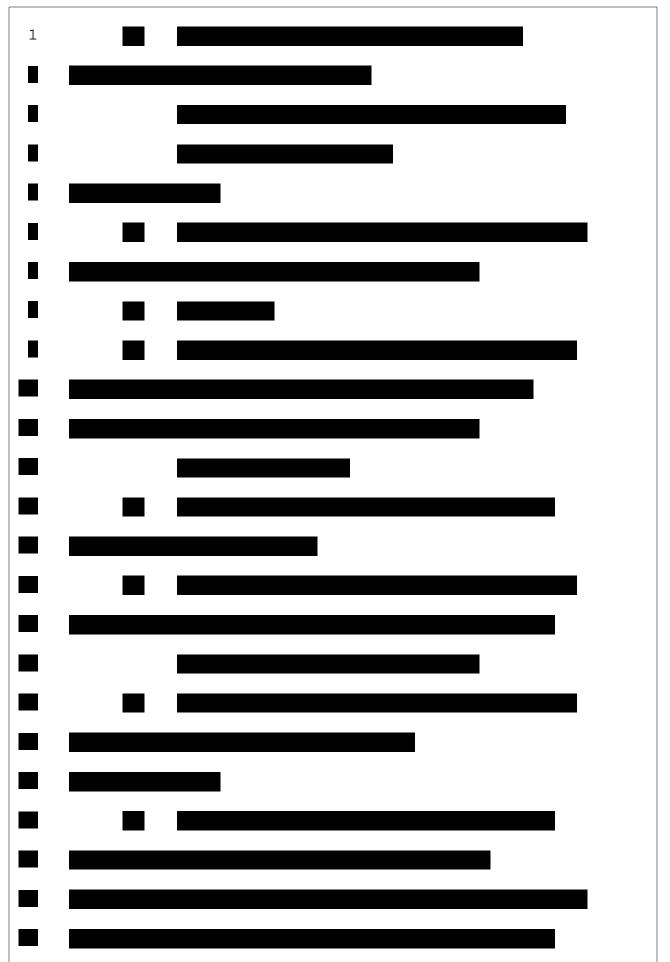
- 1 A. I don't know exactly what's meant by 2 sold. And I do see that the hydrocodone line is
  - 4 BY MR. ELSNER:
  - Q. Well, what do you believe sold means?
  - 6 A. In terms of --

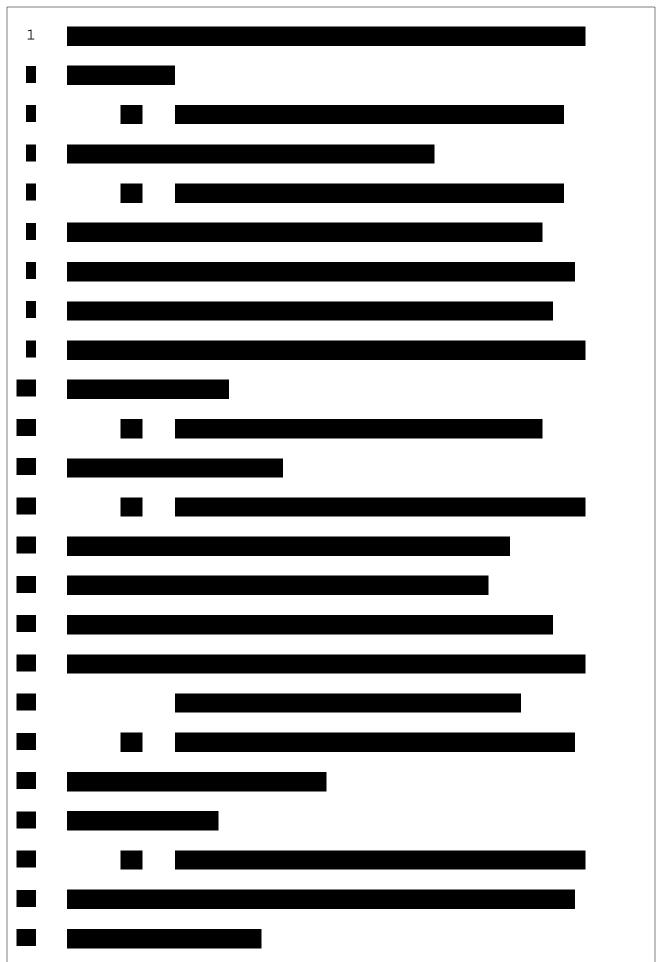
higher than other lines.

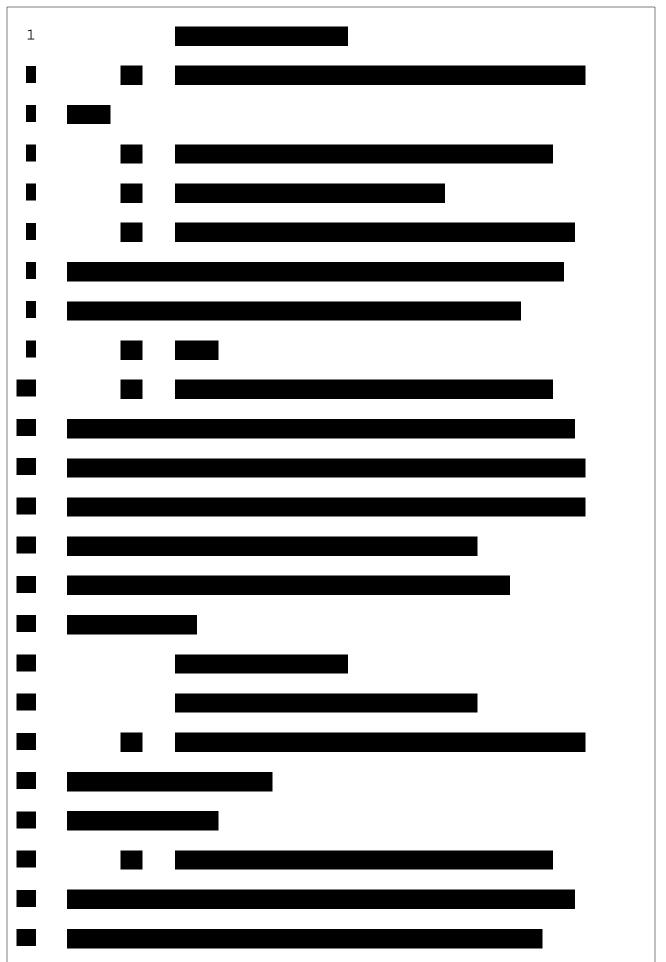
- 7 MS. MILLER: Object to form.
- A. In the terms of this slide, I'm not
- 9 sure.
- 10 BY MR. ELSNER:
- 11 Q. Were you aware that there were more
- 12 prescriptions filled and sales of hydrocodone
- than there were for Lipitor in the United
- 14 States?
- MS. MILLER: Object to form.
- 16 A. Just based on this chart saying
- 17 "Prescription Drugs Sold," which I'm not --
- 18 still not sure exactly what sold means, the
- 19 hydrocodone bar is larger than the Lipitor bar.
- 20 BY MR. ELSNER:
- 21

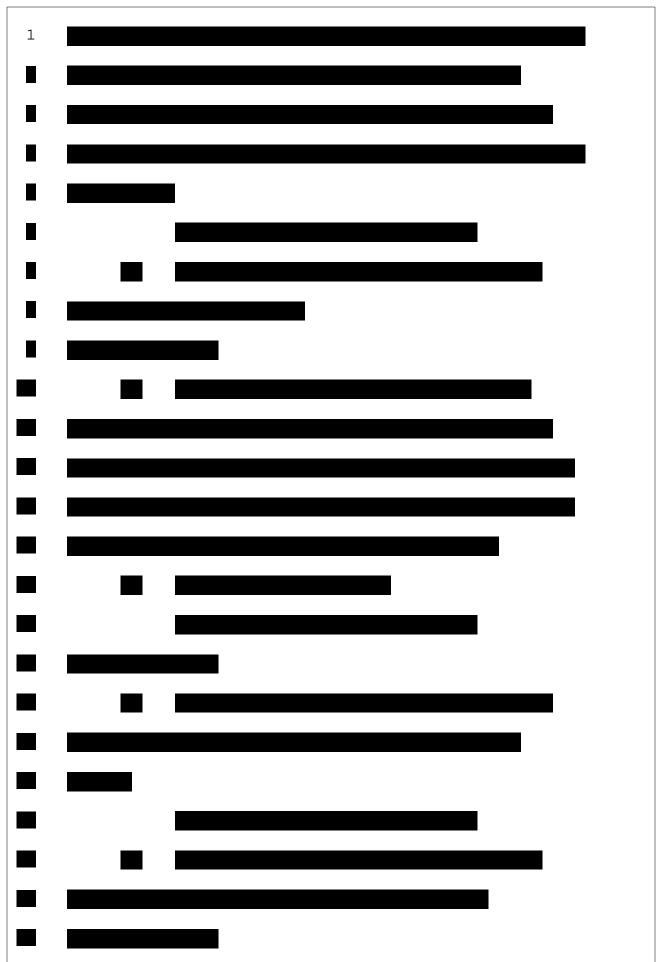
1 17 BY MR. ELSNER: Did you know that hydrocodone was one 18 of the most widely diverted and abused drugs in 19 20 the United States? 21 MS. MILLER: Object to form. 22 Α. I don't know if I knew it was one of the most highly diverted drugs. 23 24 BY MR. ELSNER:

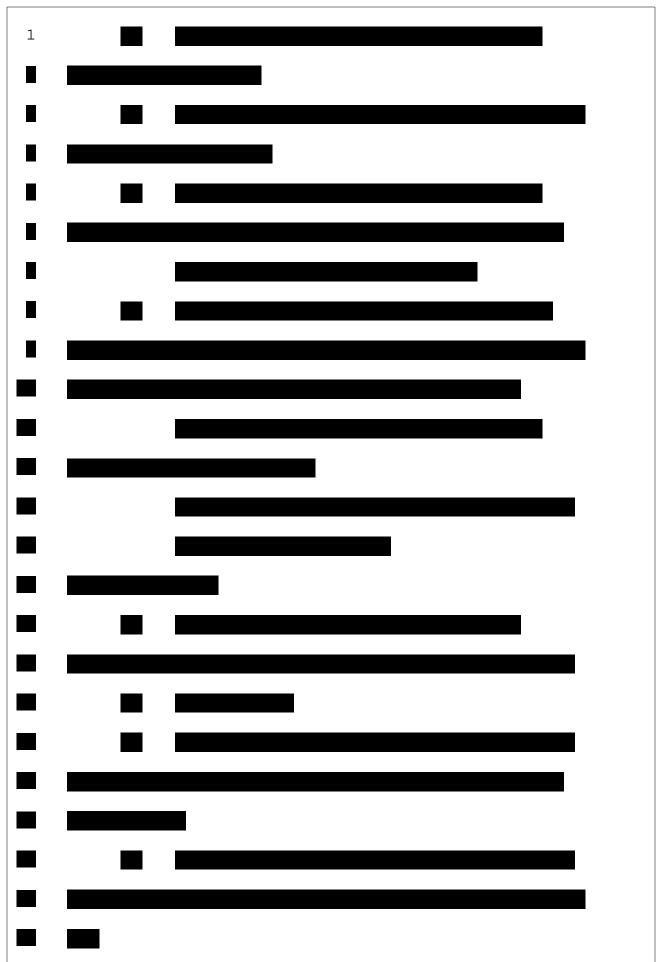
1 15 BY MR. ELSNER: Q. Who asked you to attend this 16 conference in New York? 17 MS. MILLER: Object to form. 18 19 BY MR. ELSNER: 20 Q. If anyone. 21 A. I don't recall. 22 Q. Did someone at CVS ask you to go, or did you decide to go on your own? 23 24 I don't recall. Α.

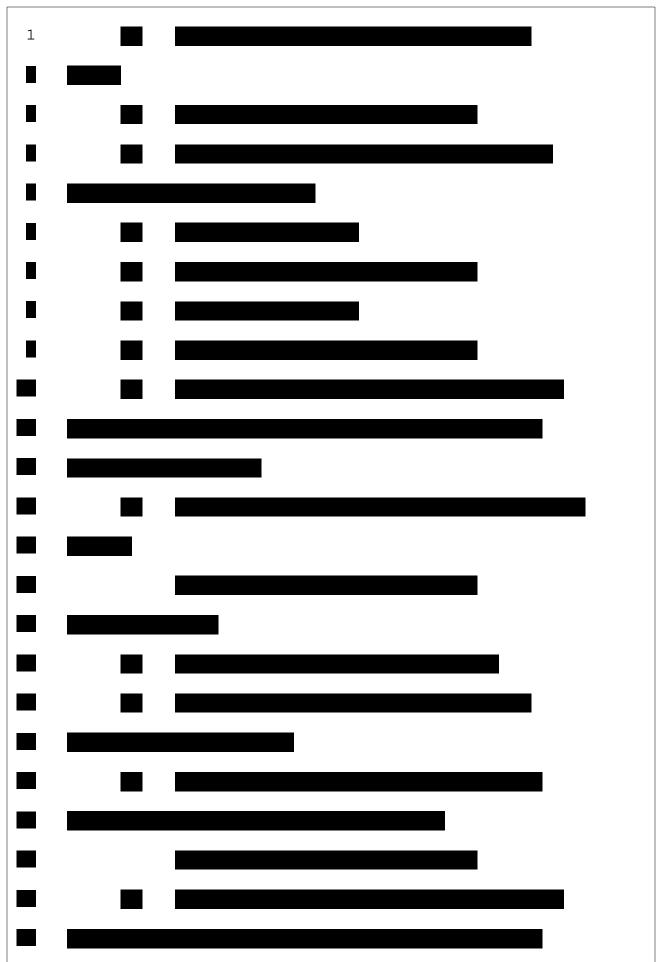


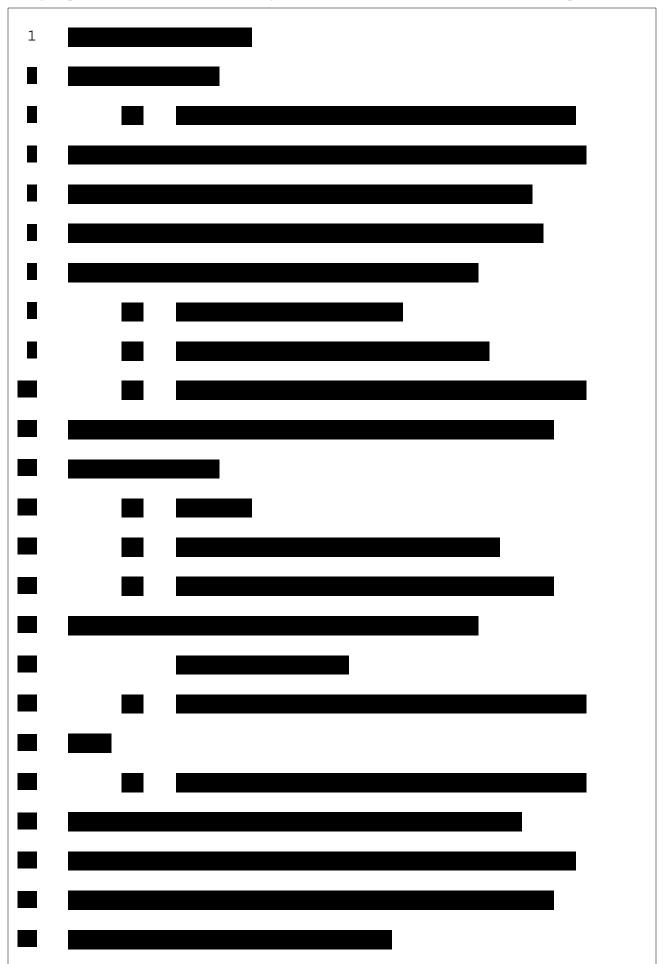


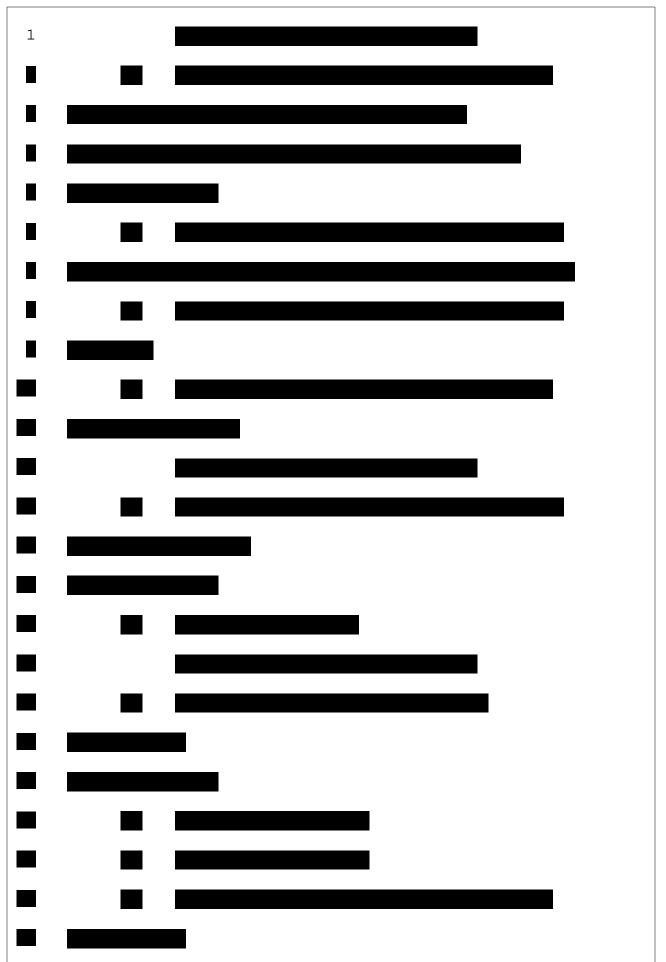


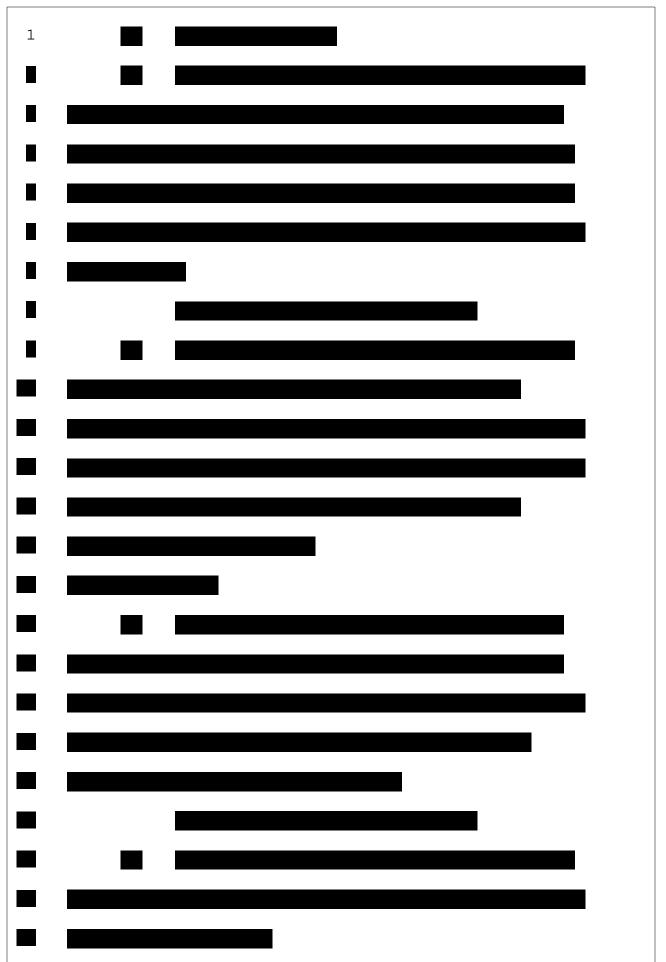




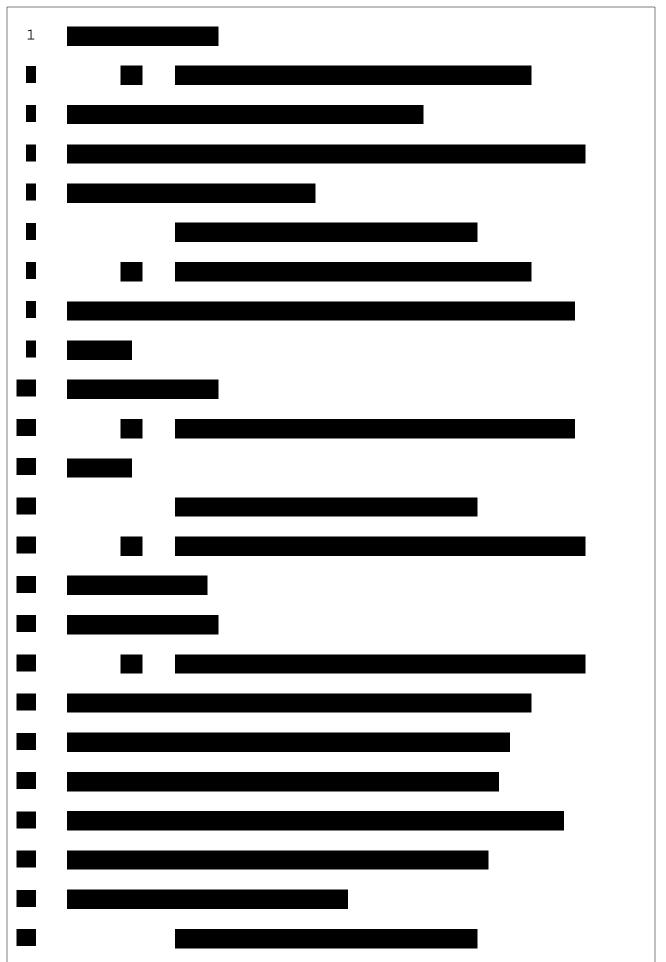


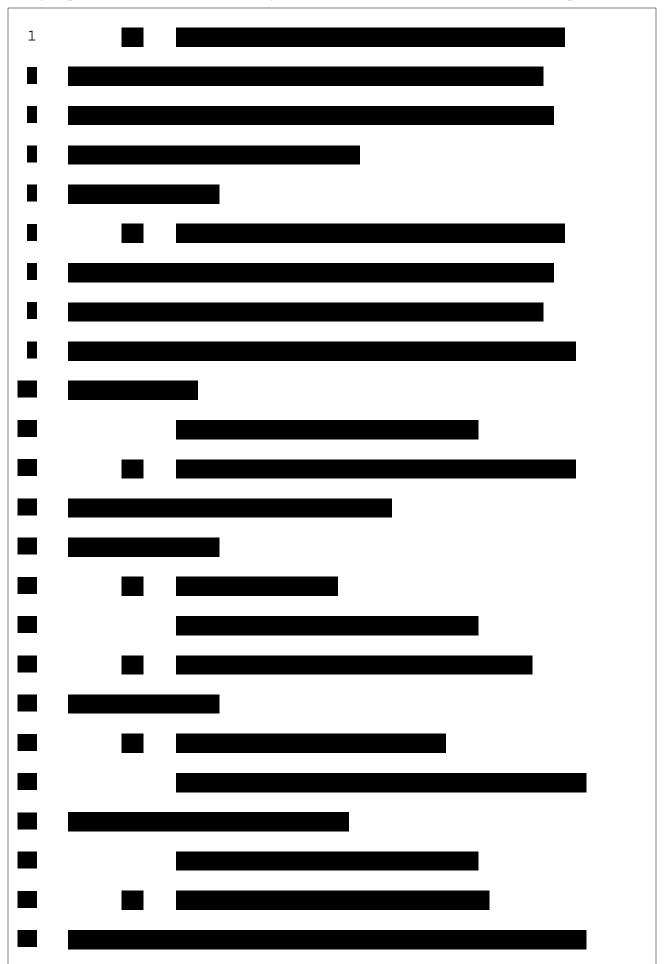


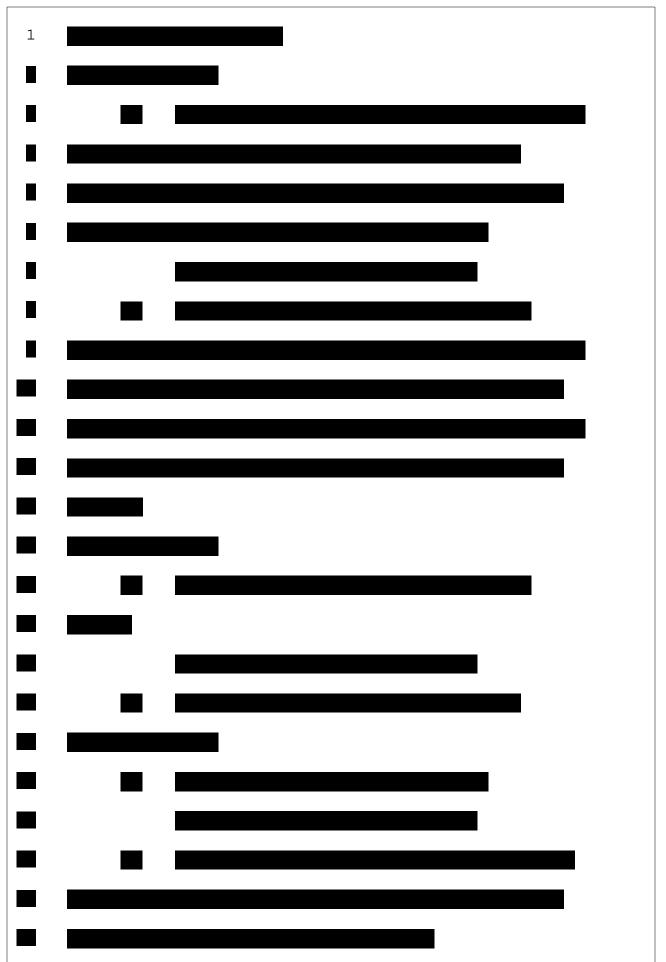


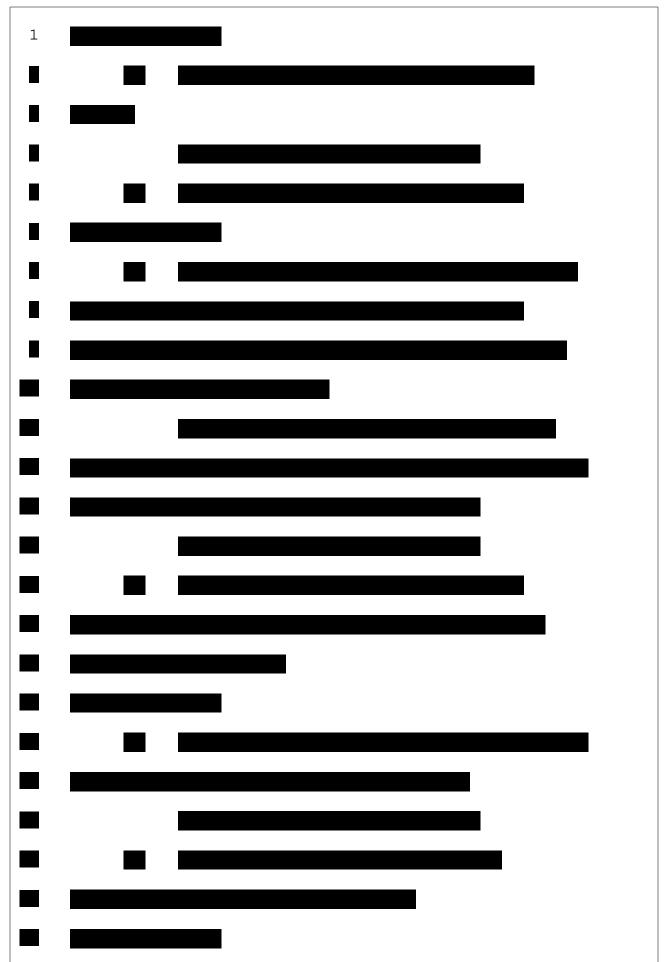


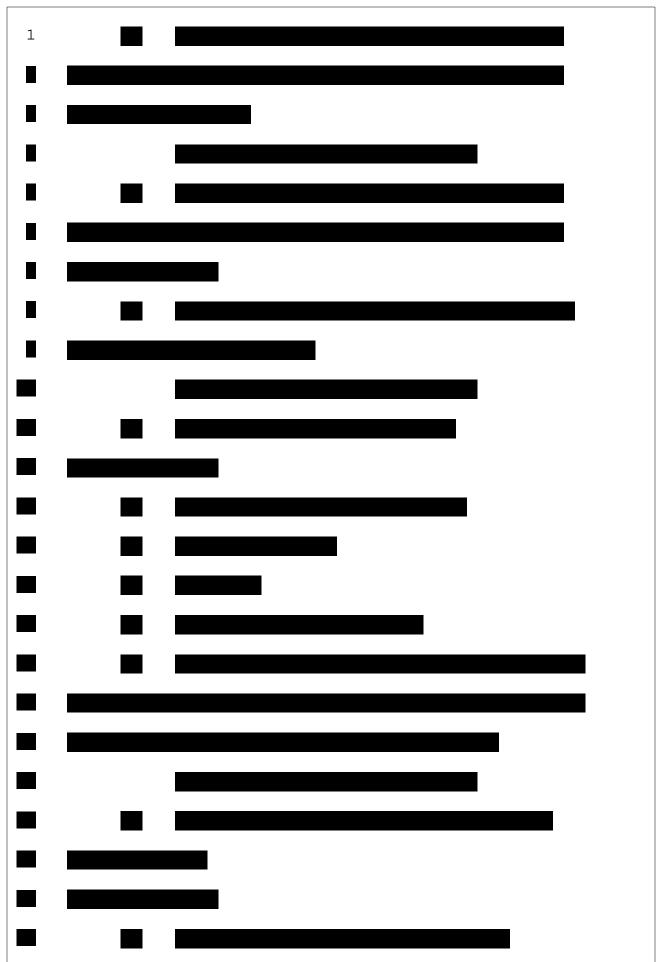
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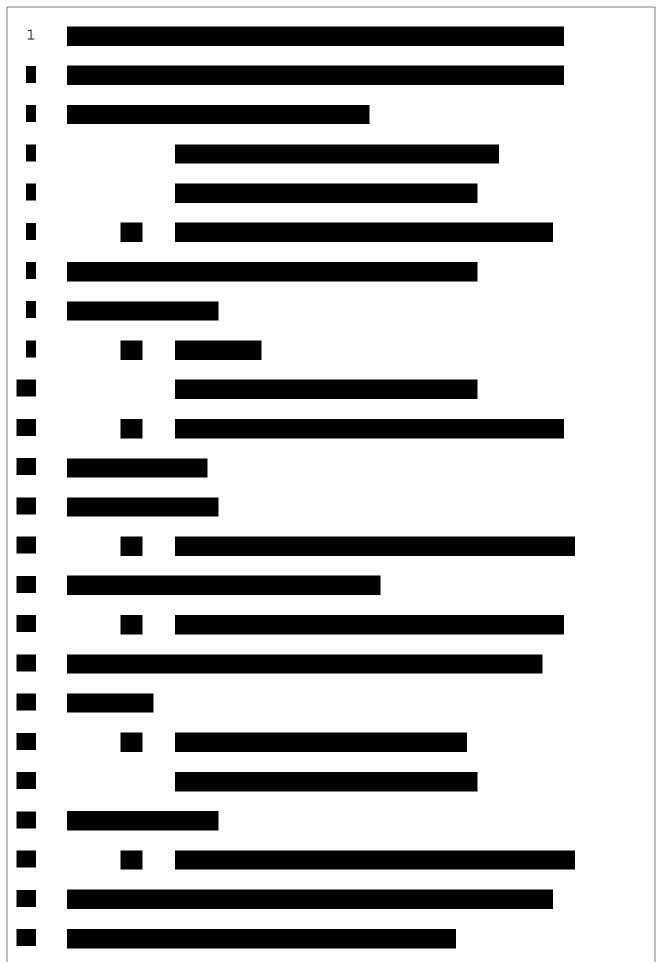


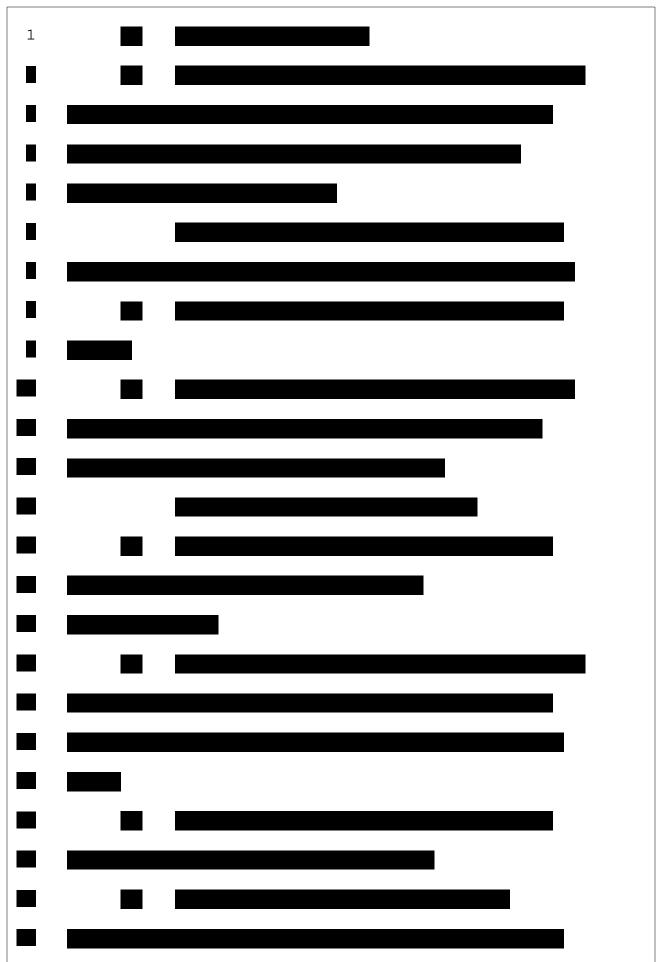


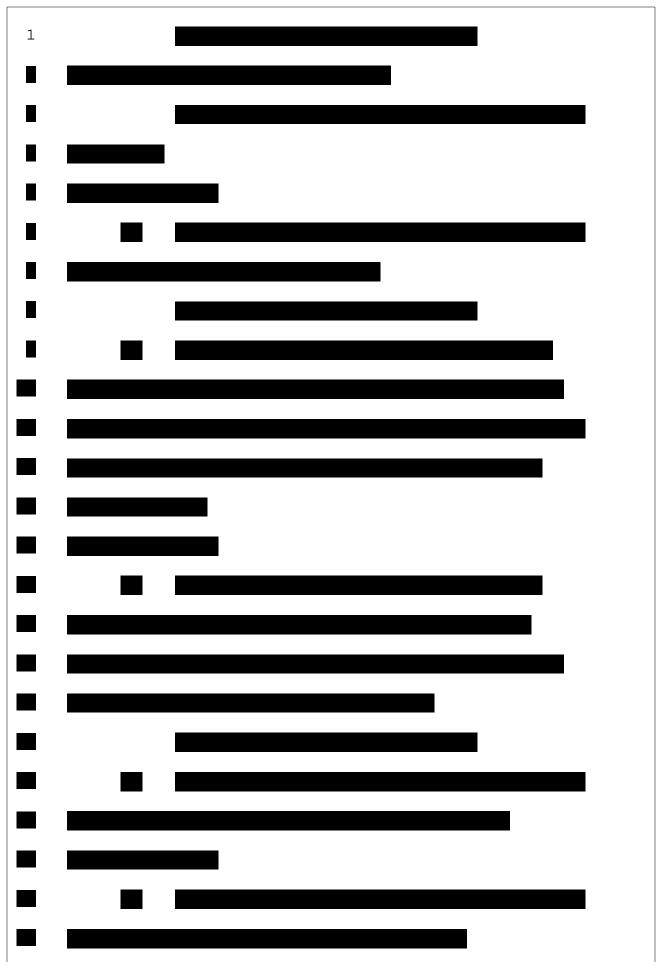


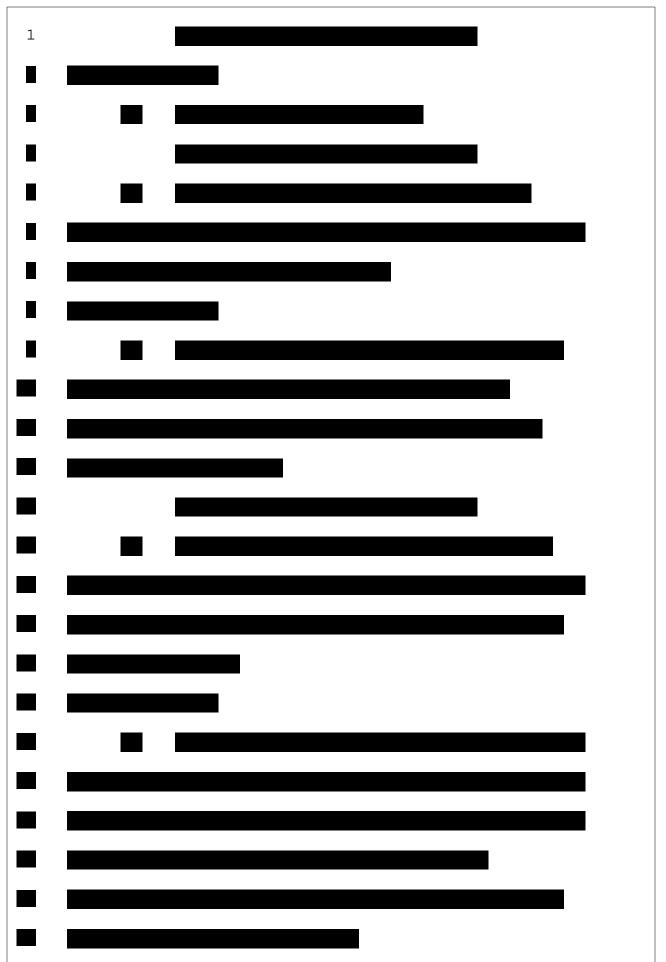


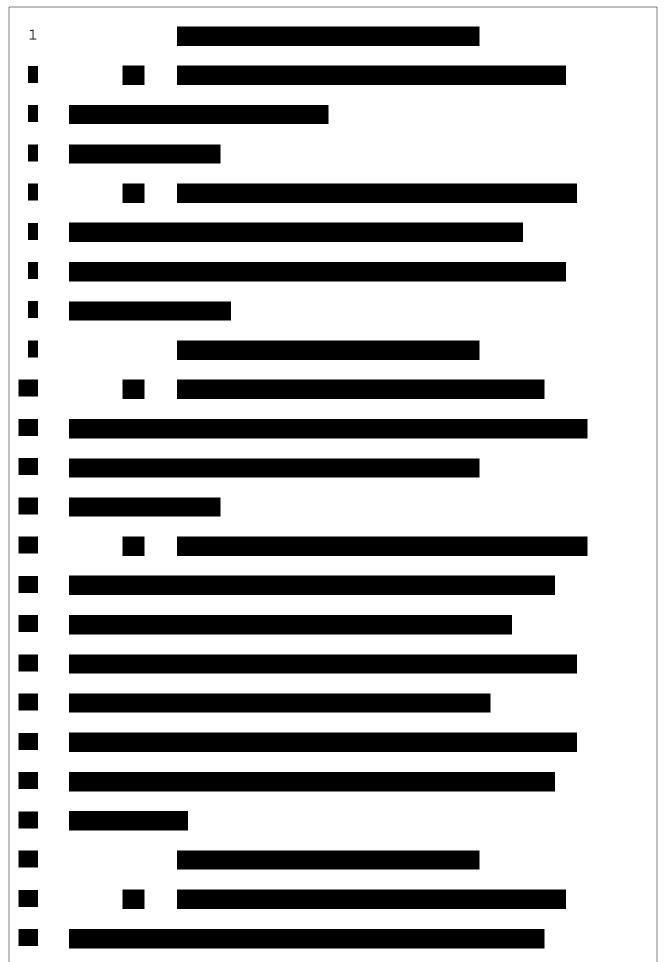


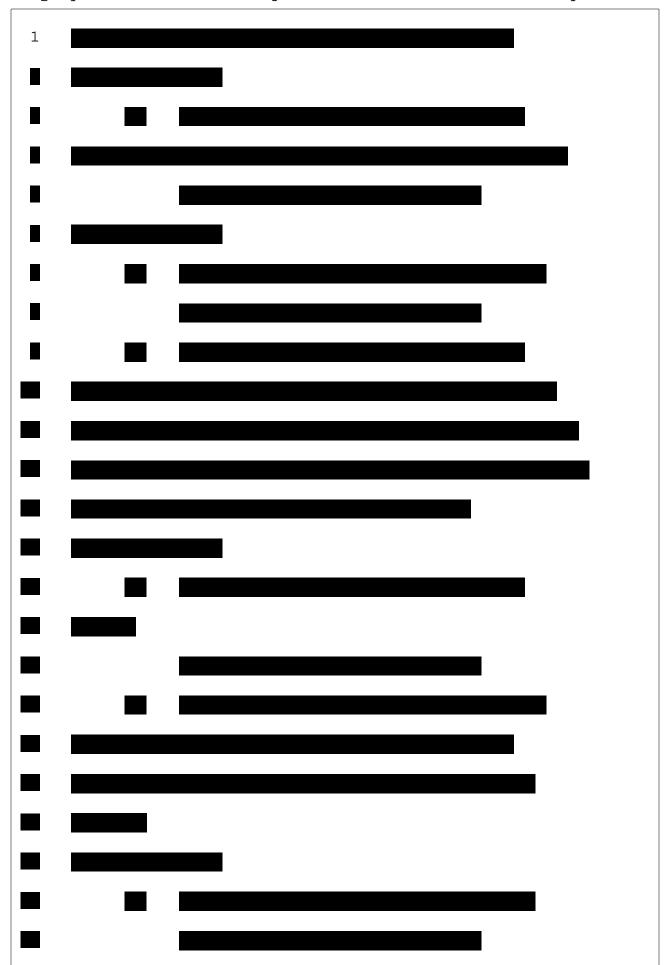


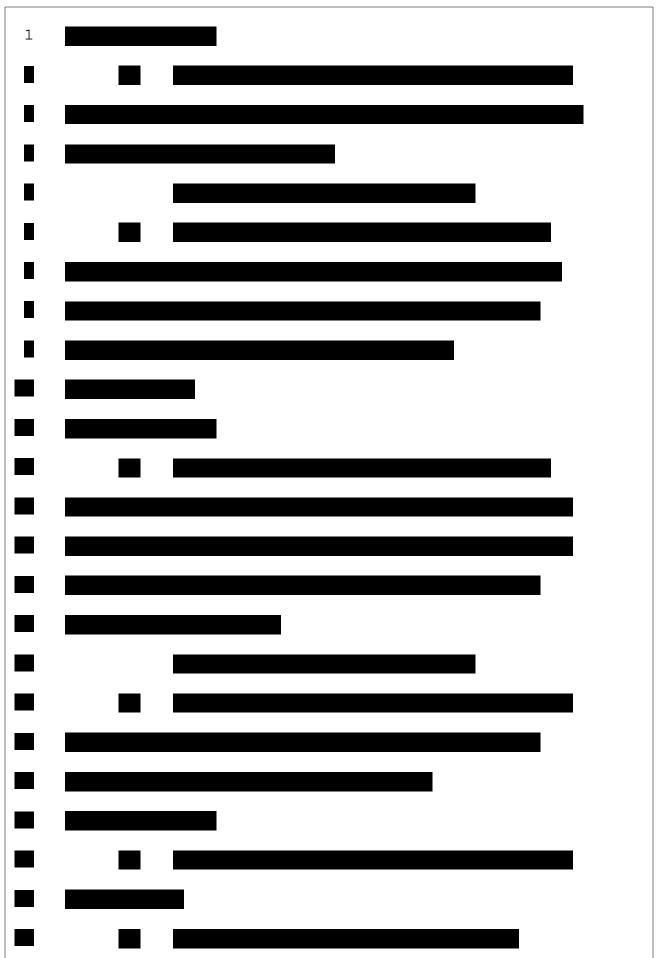


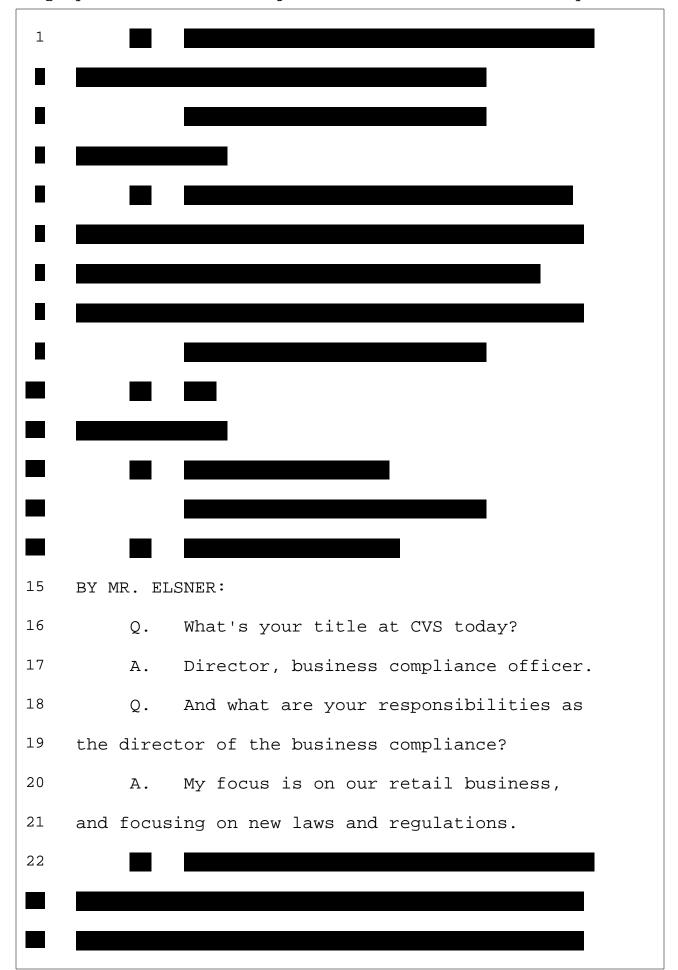


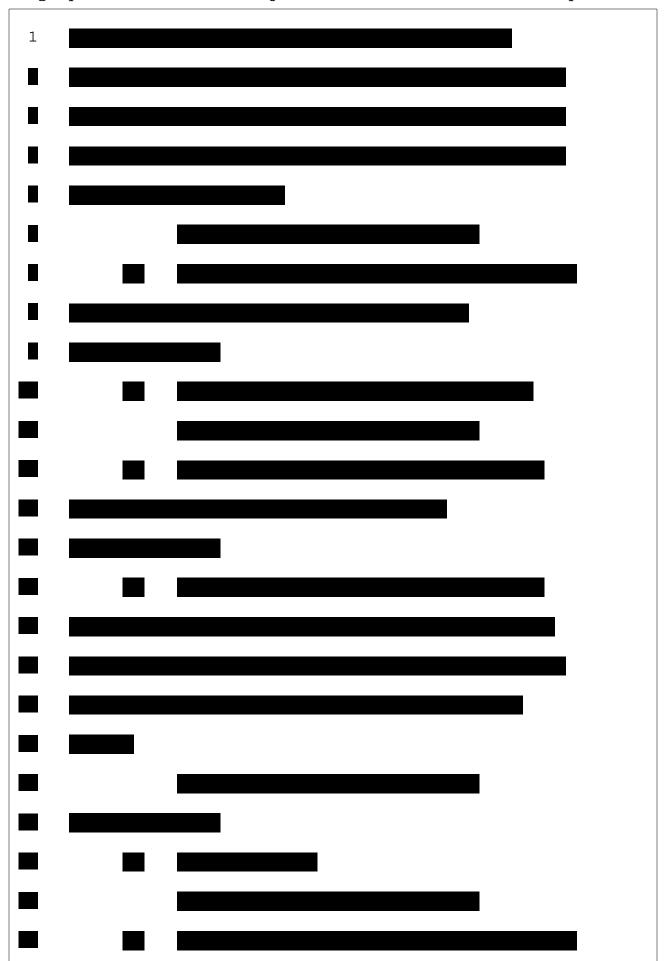


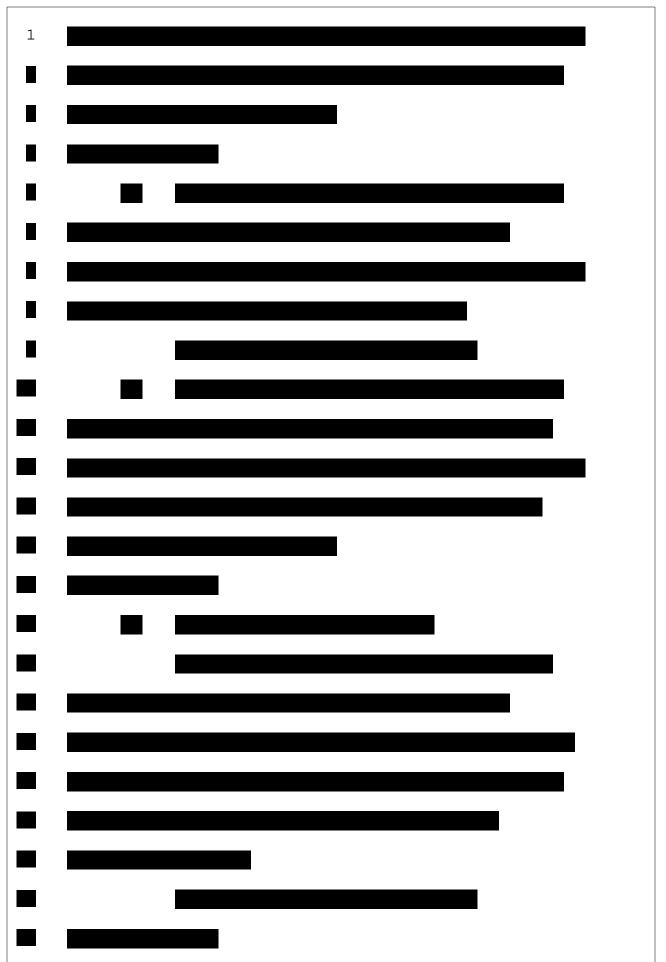


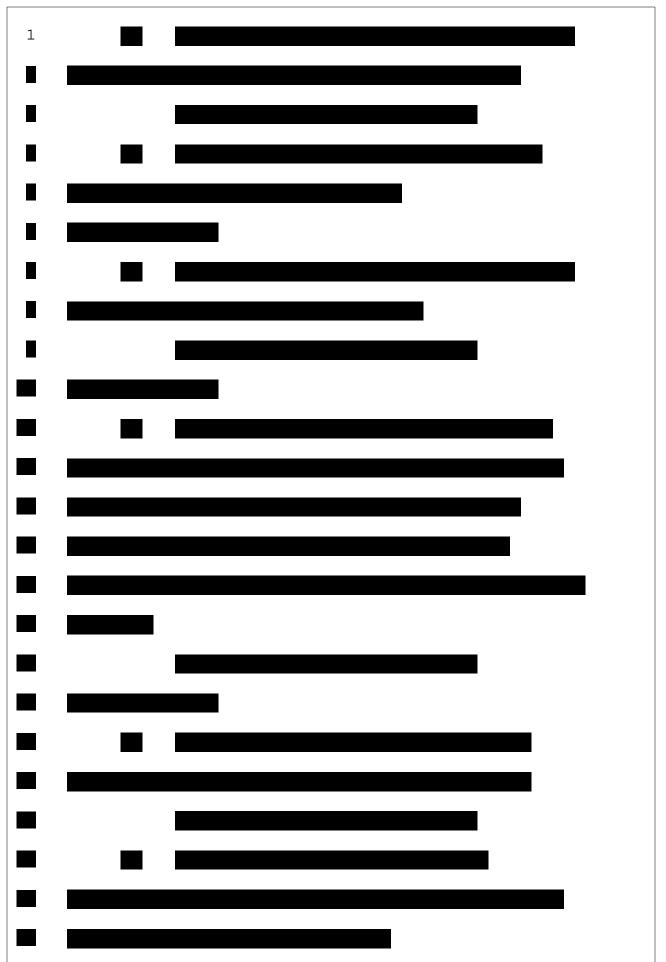


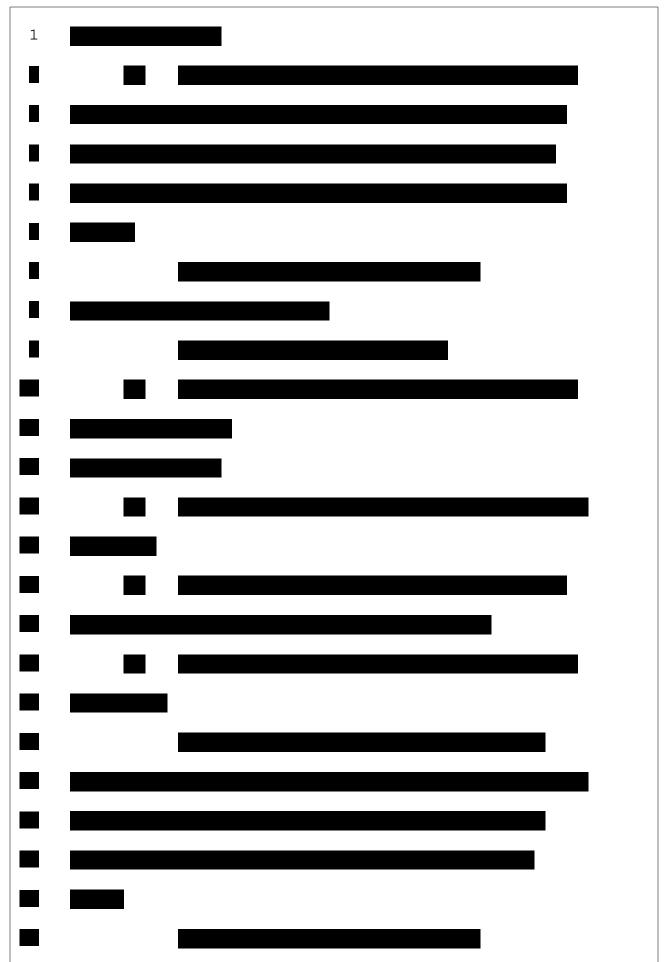


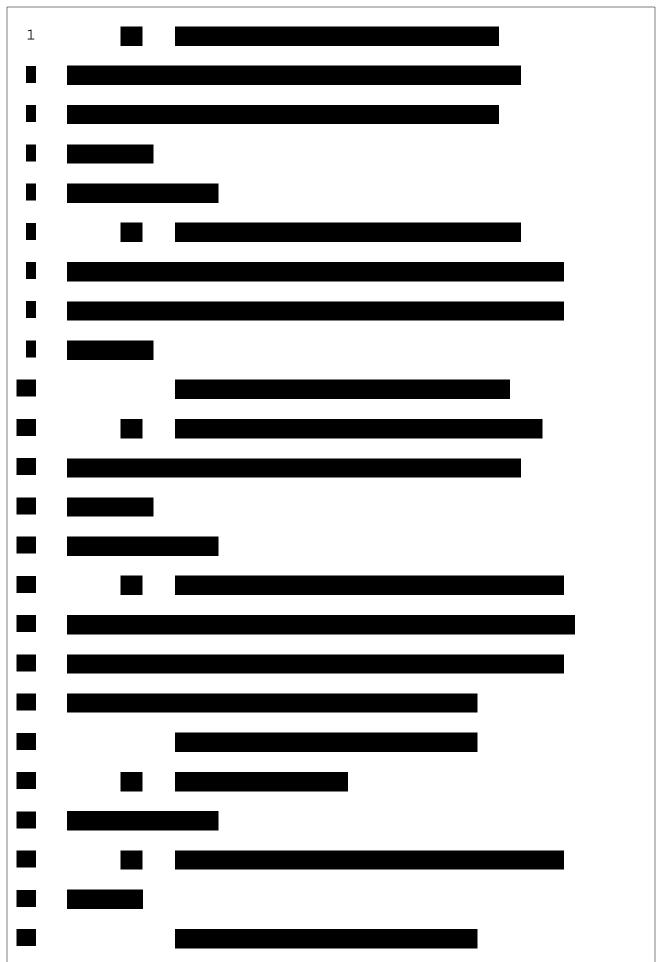


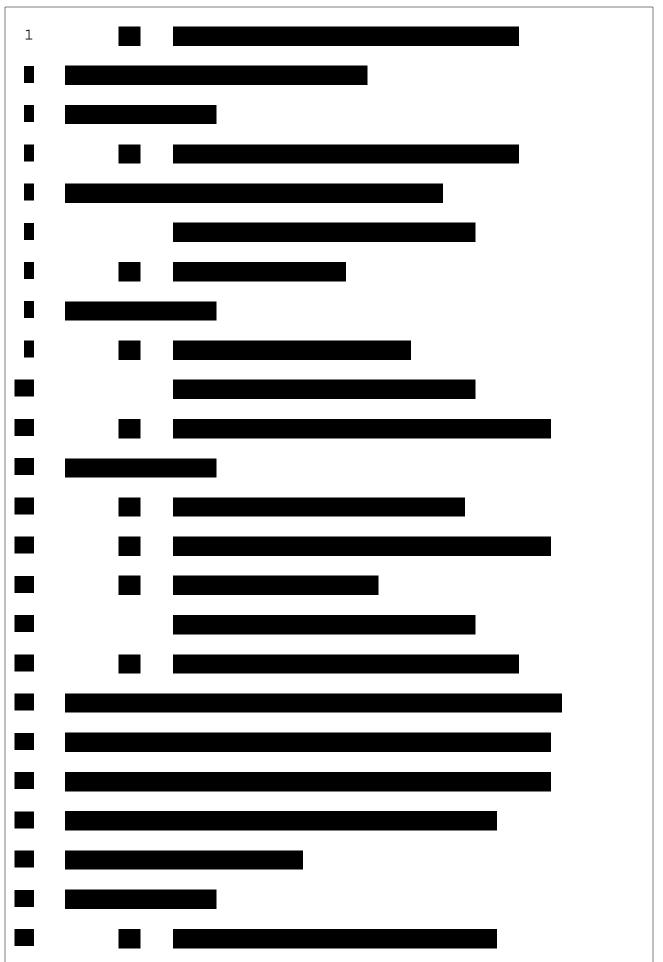


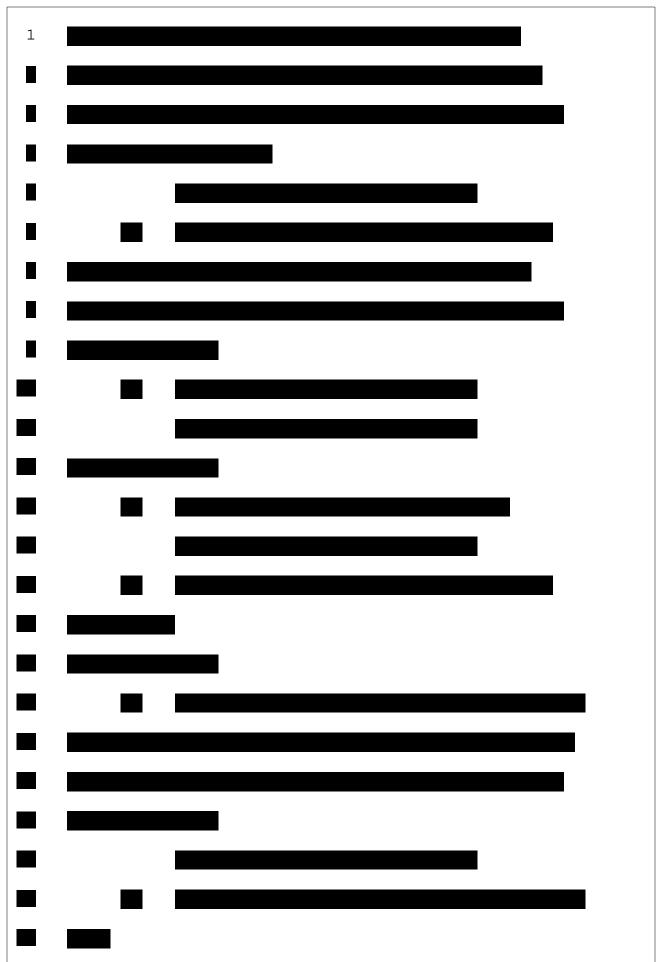


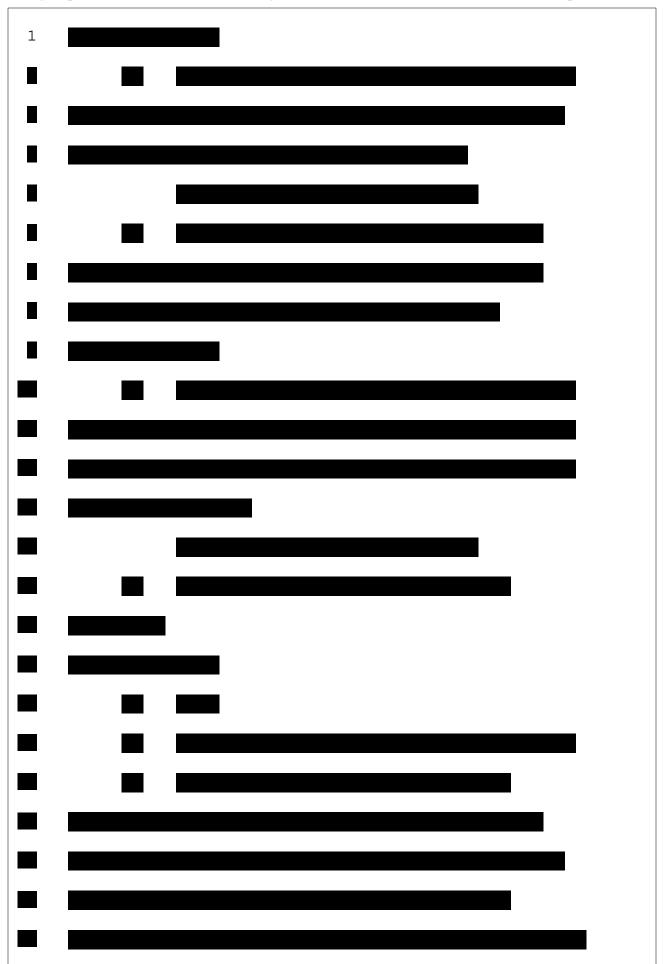


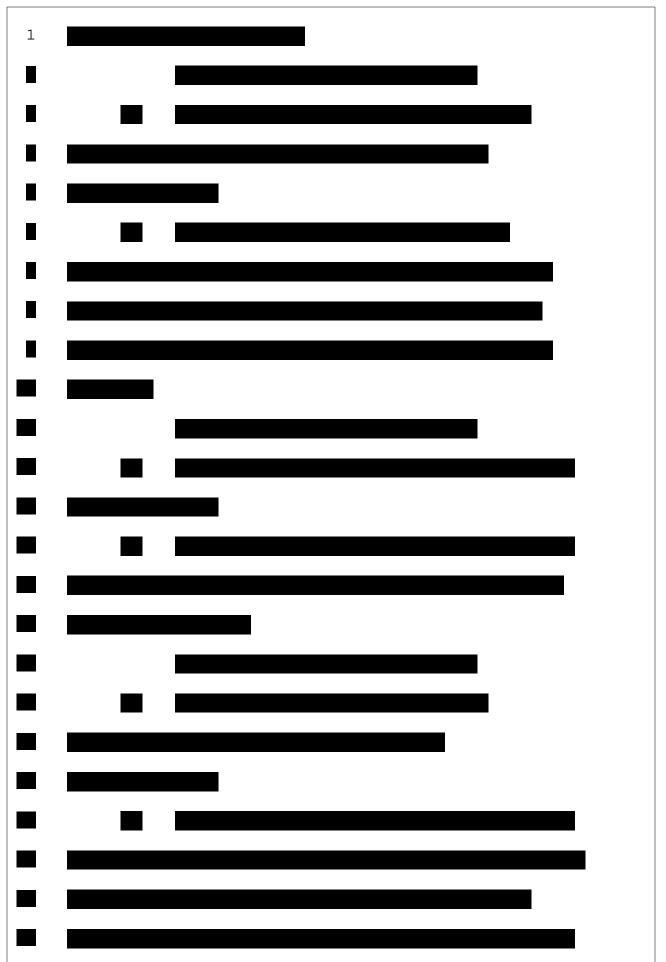


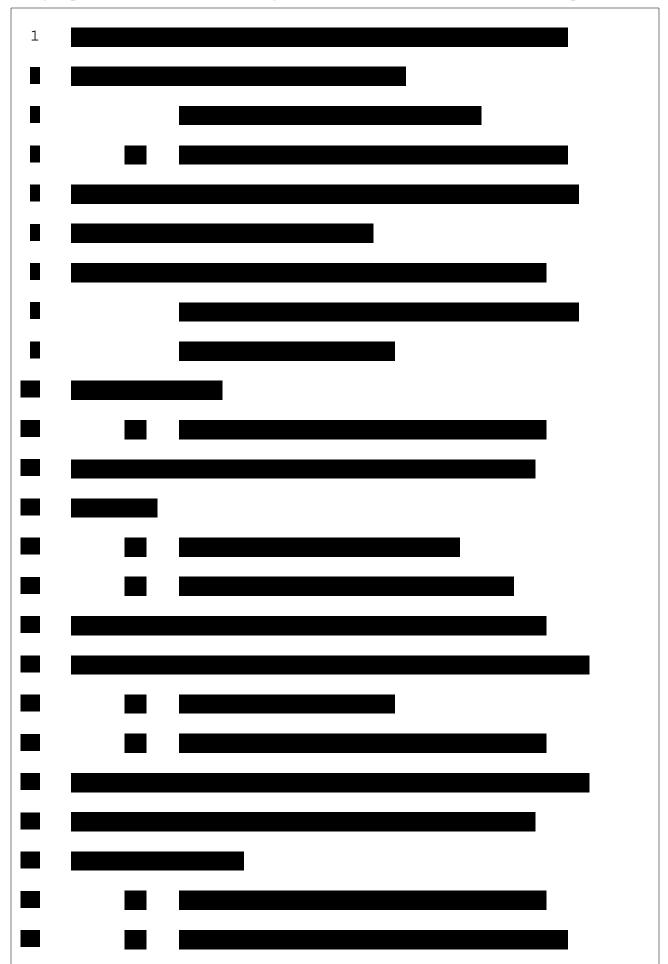


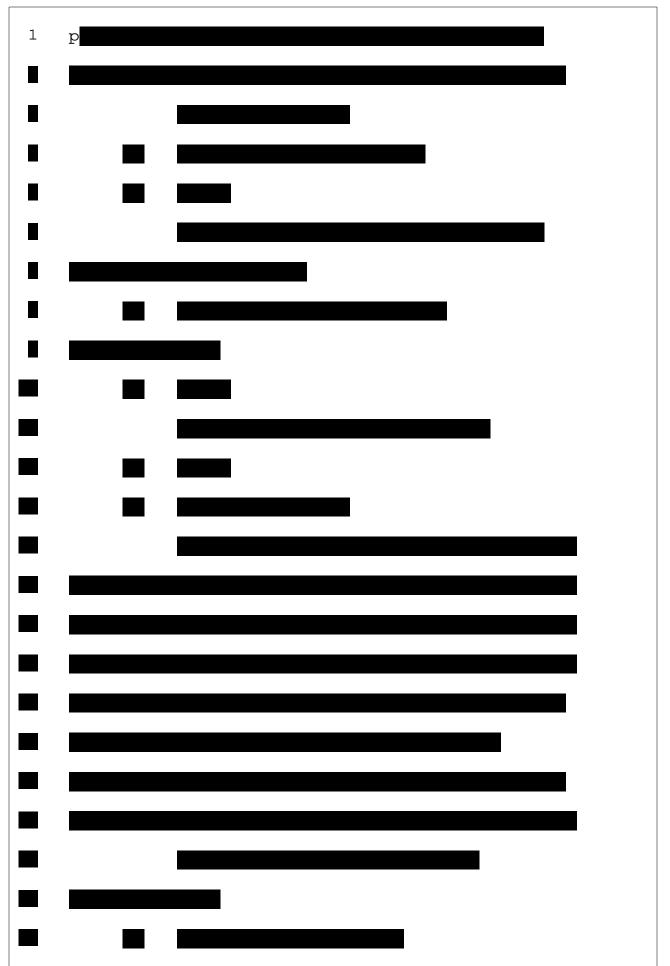


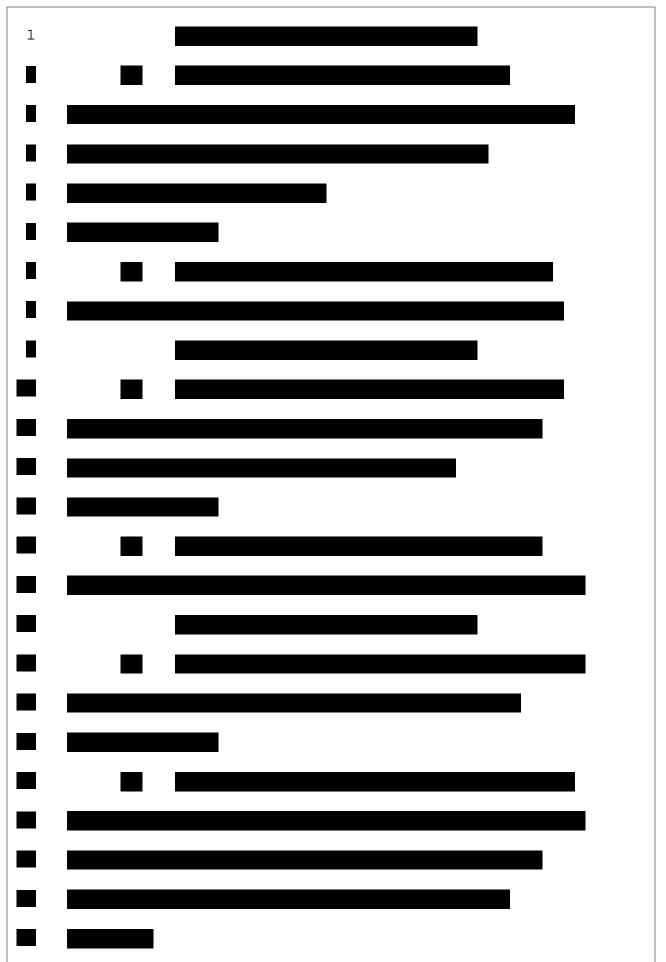


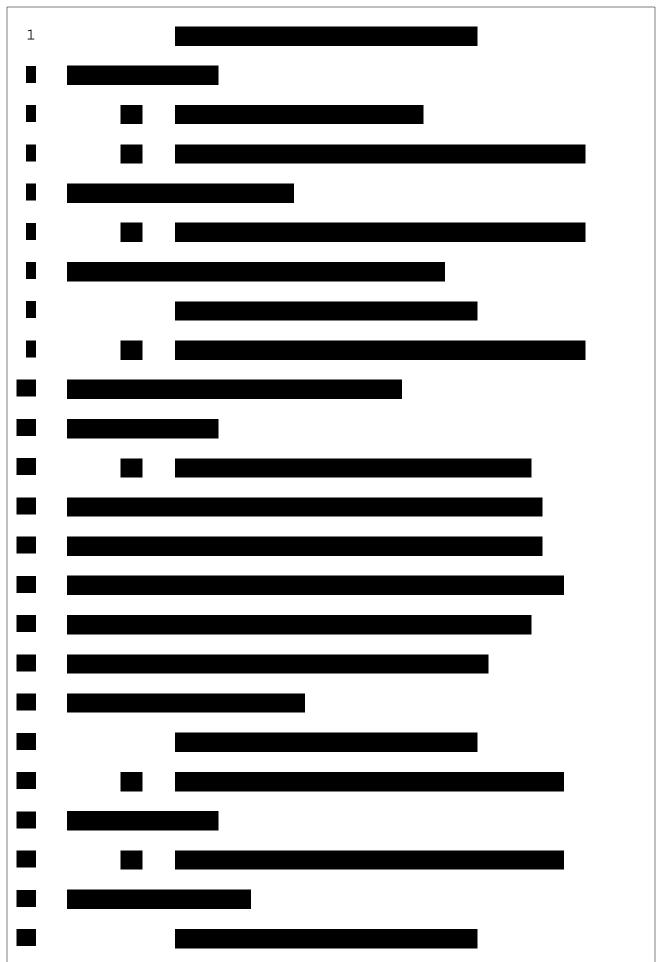


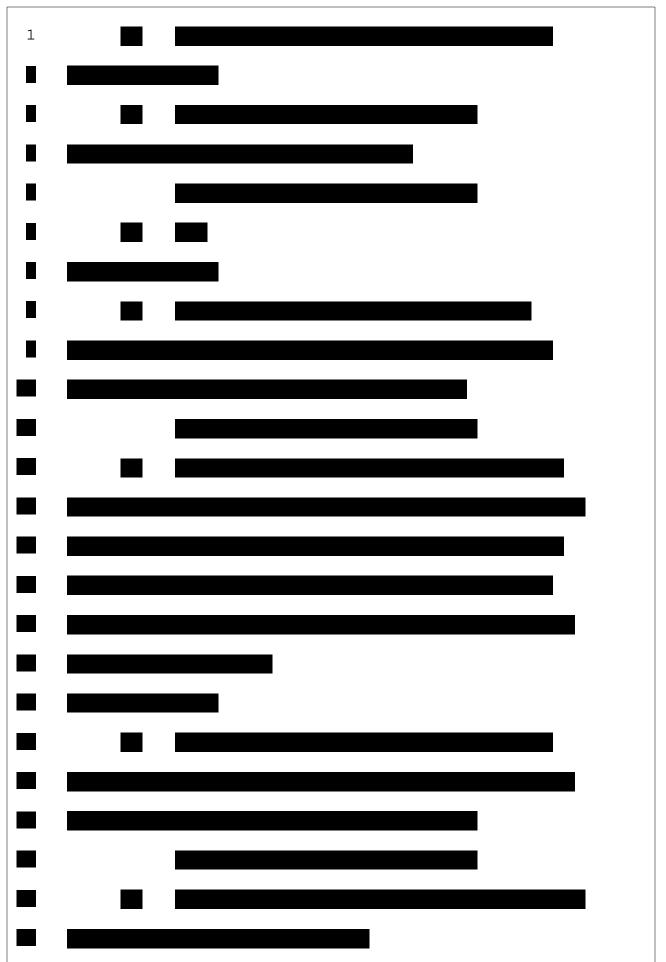


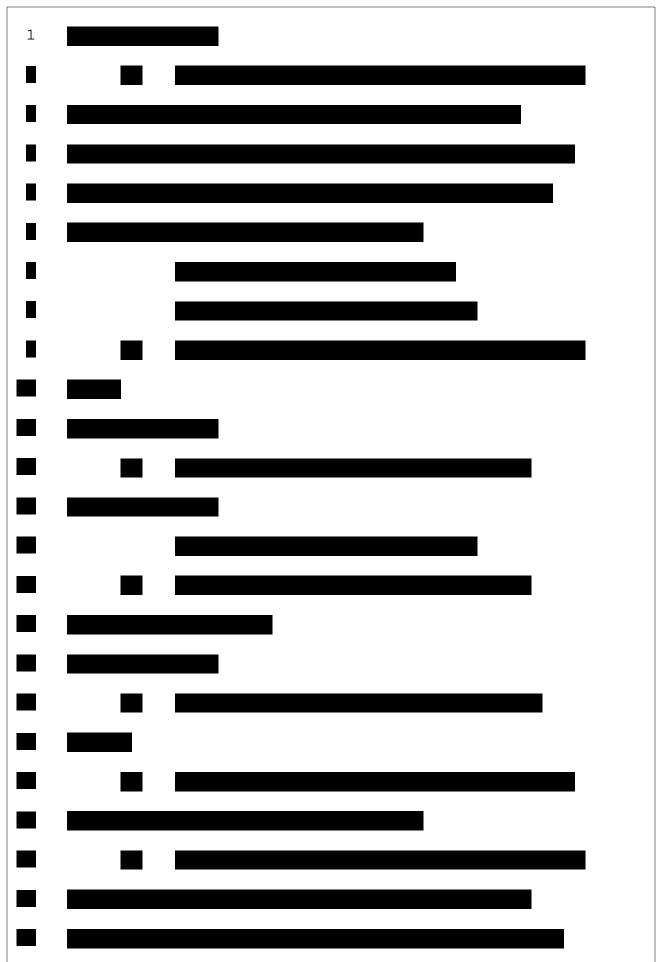


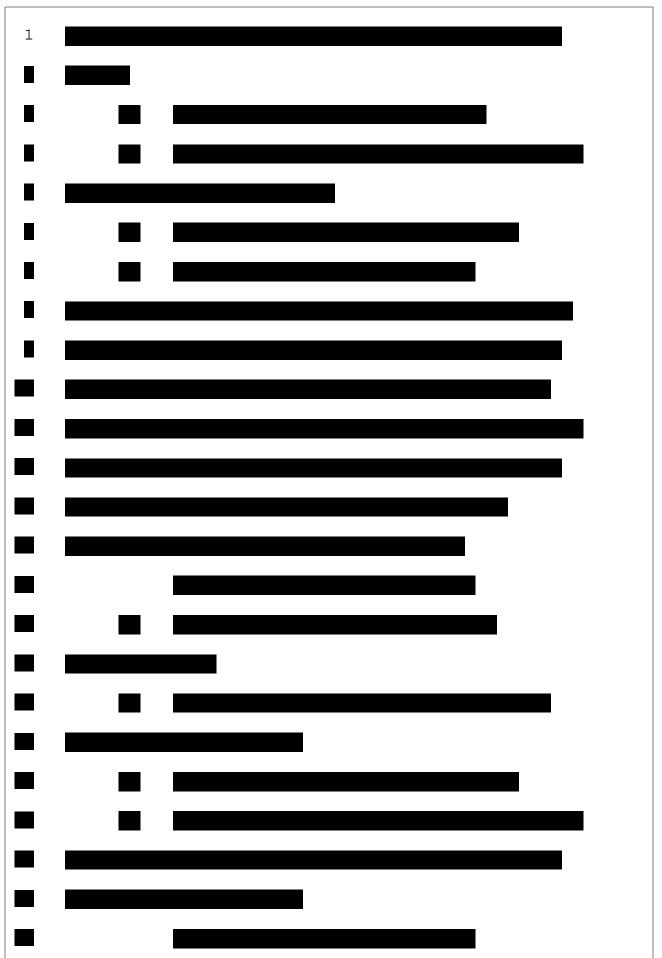




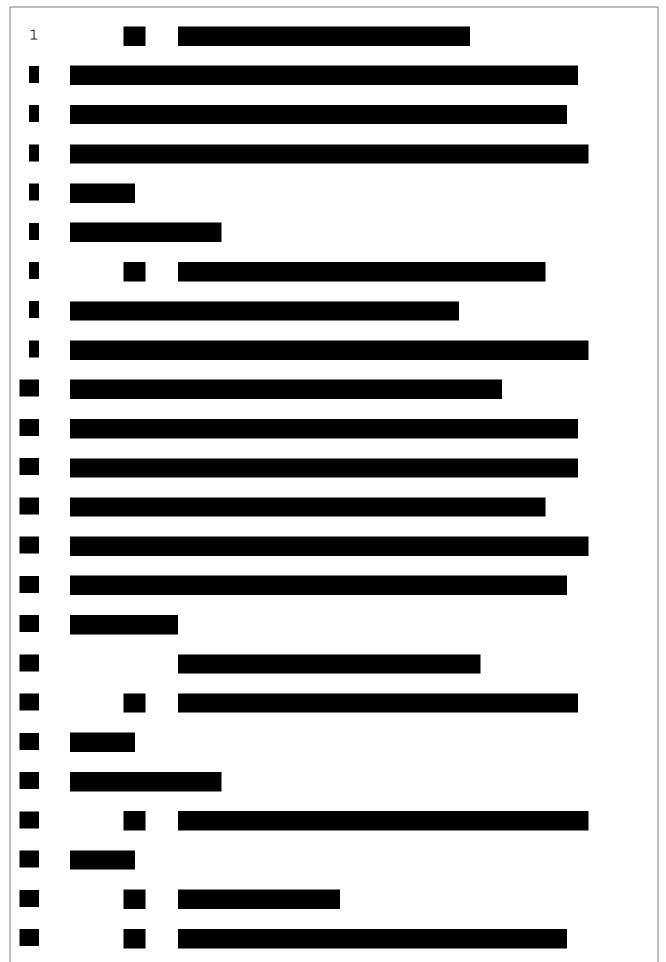


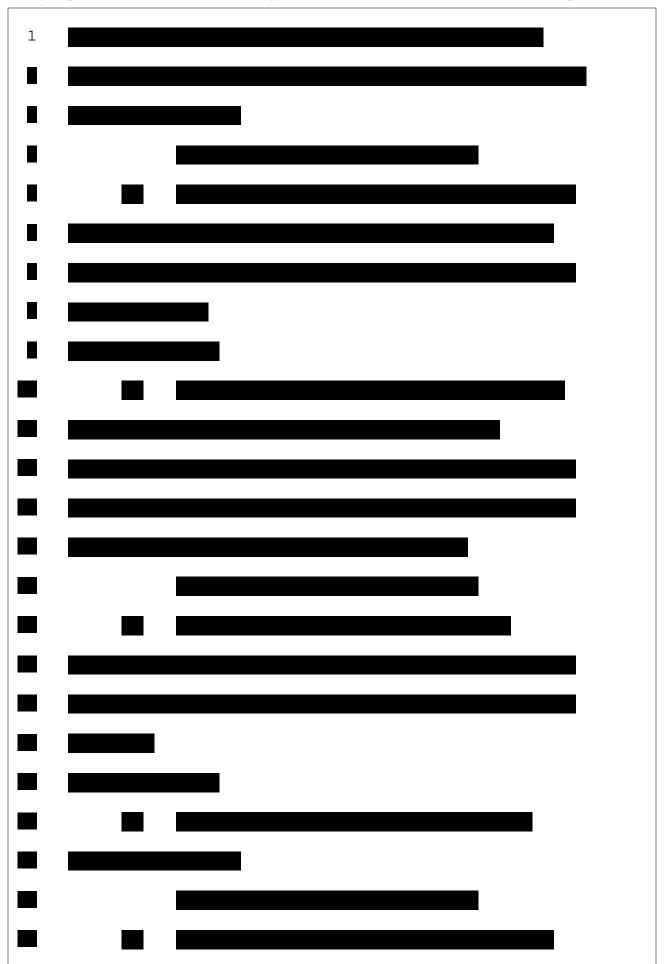


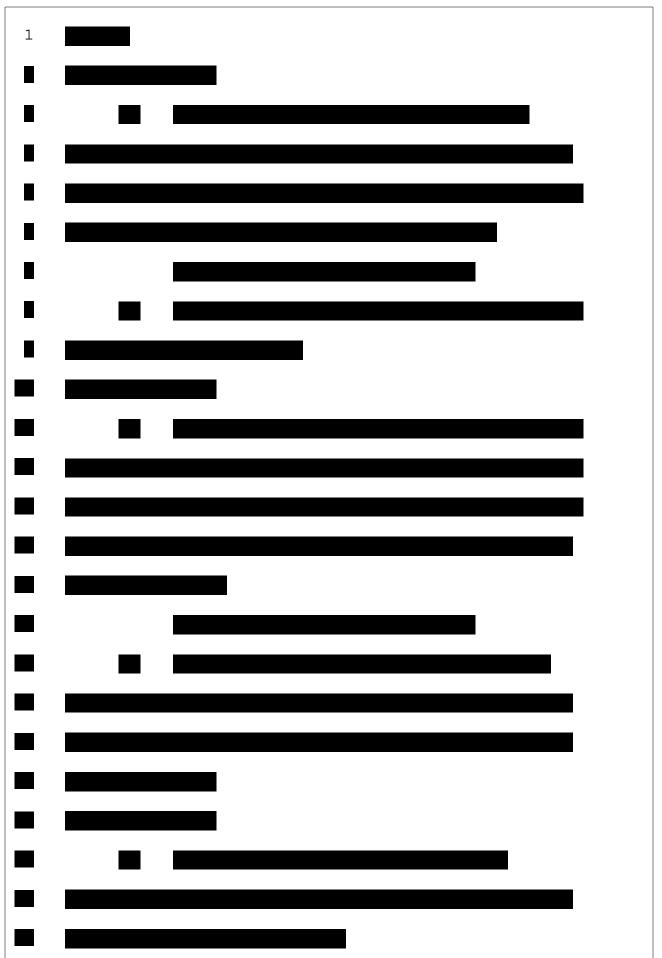


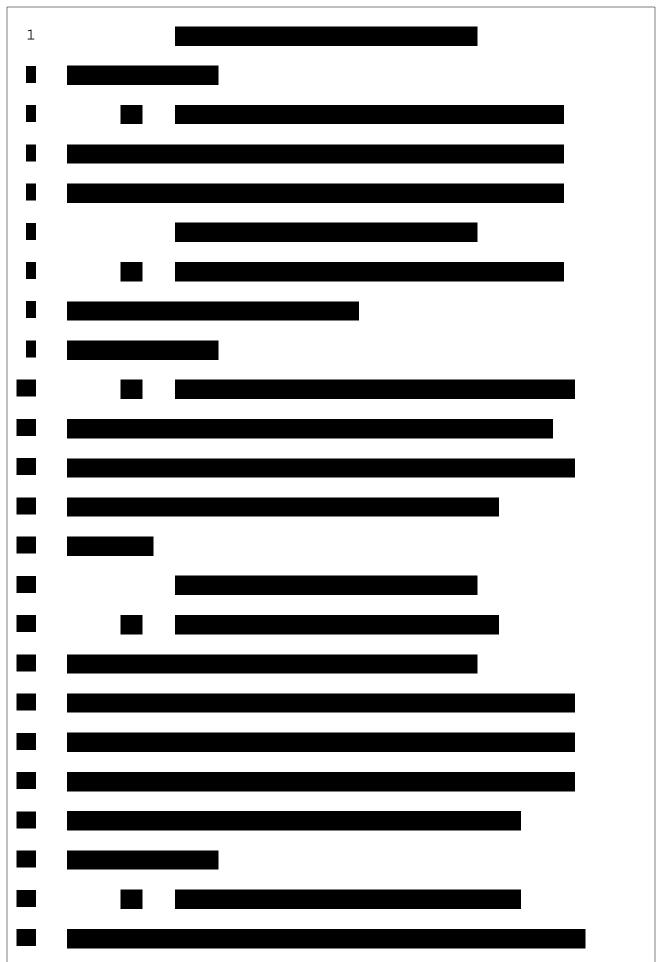


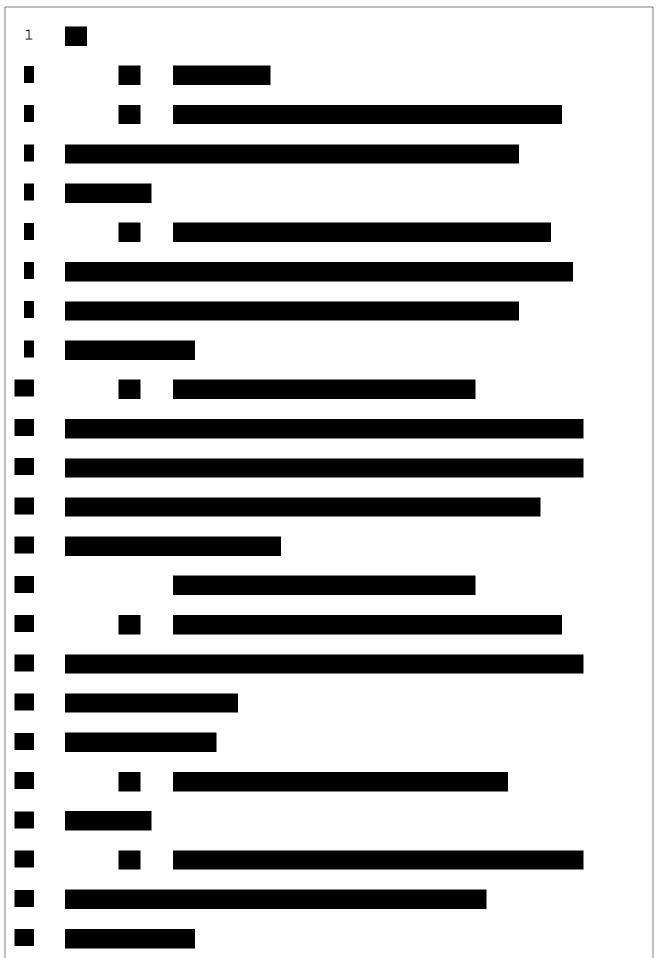
Case: 1:17-md-02804-DAP\_Dog#: 2177-2 Filed: 08/12/19 185 of 393 PageID #: 318214 Fighly Confidential ty Review

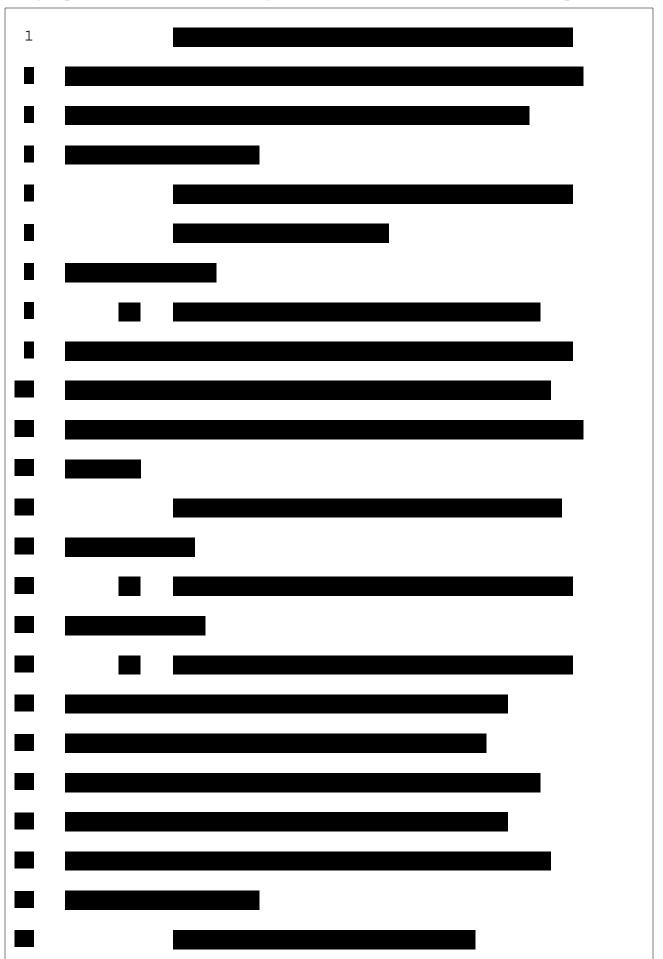


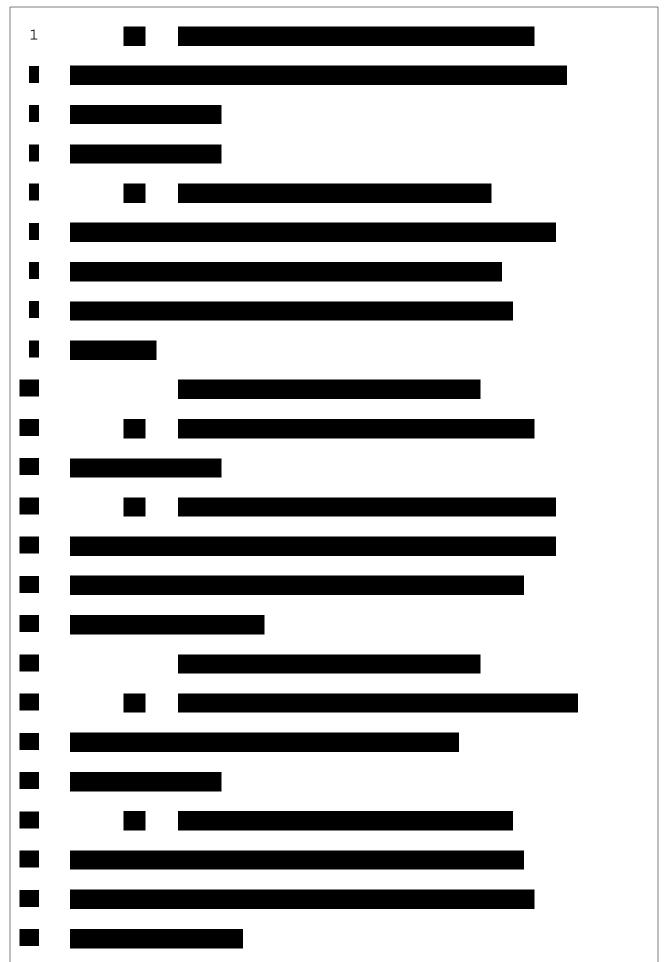


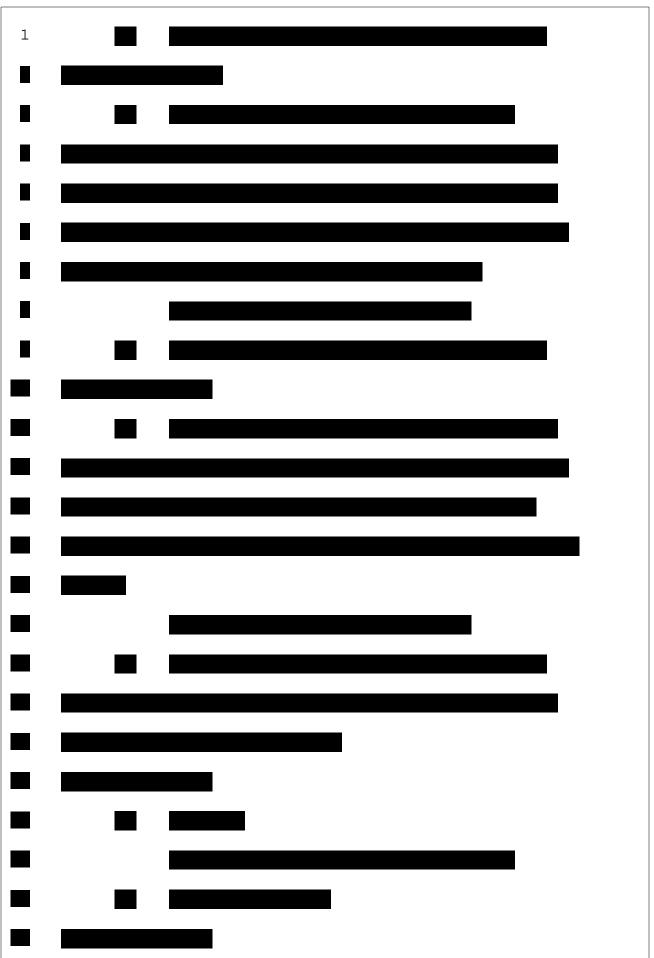


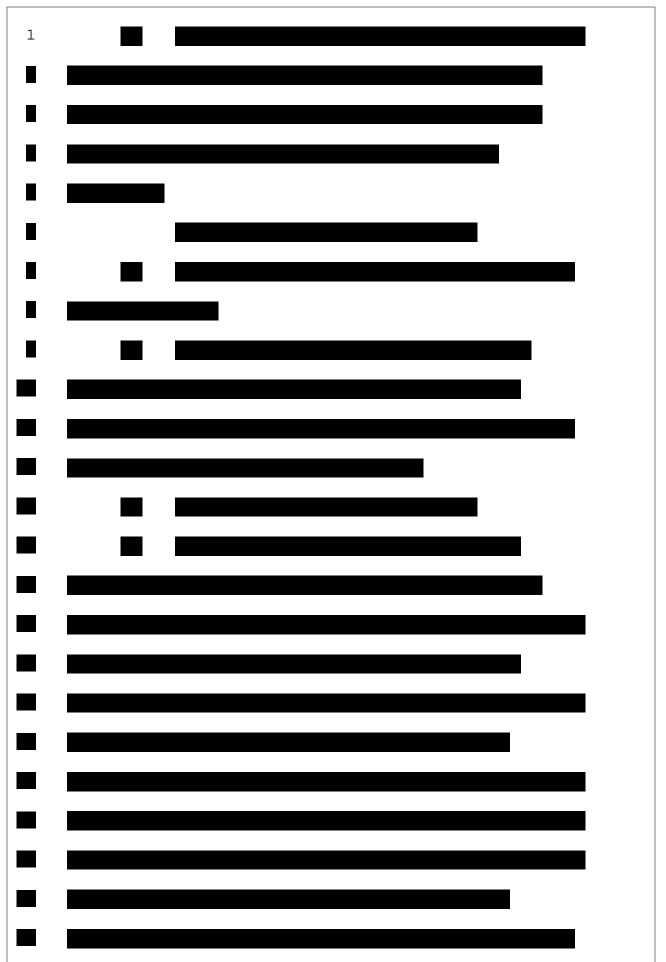


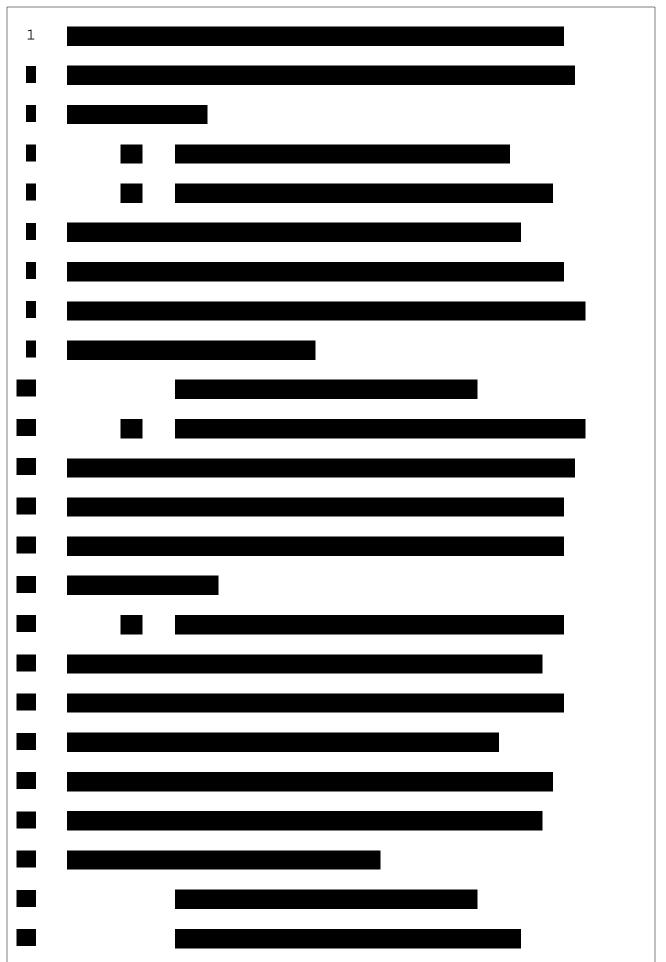


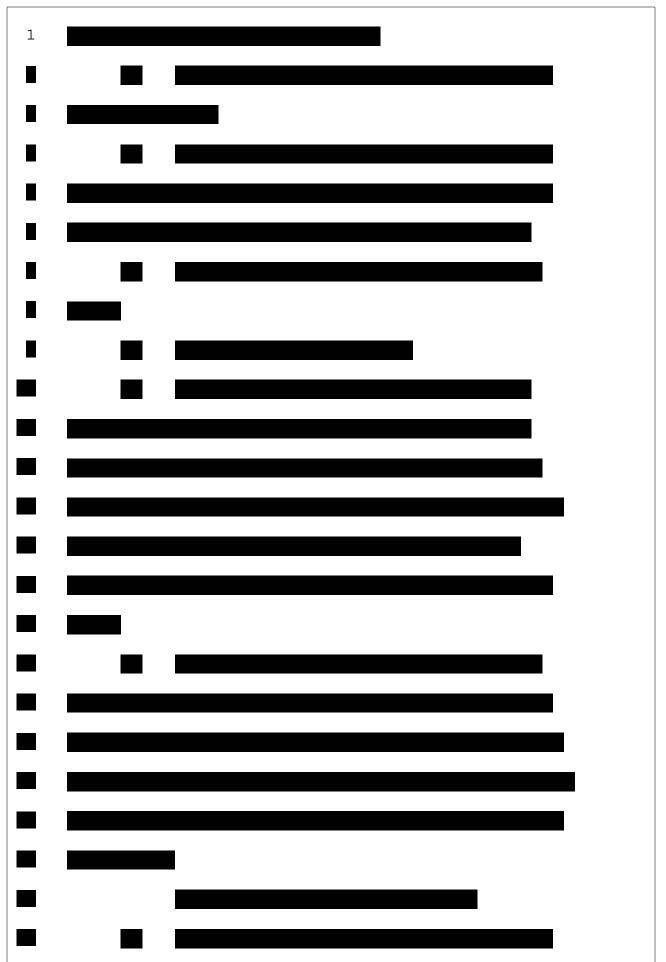


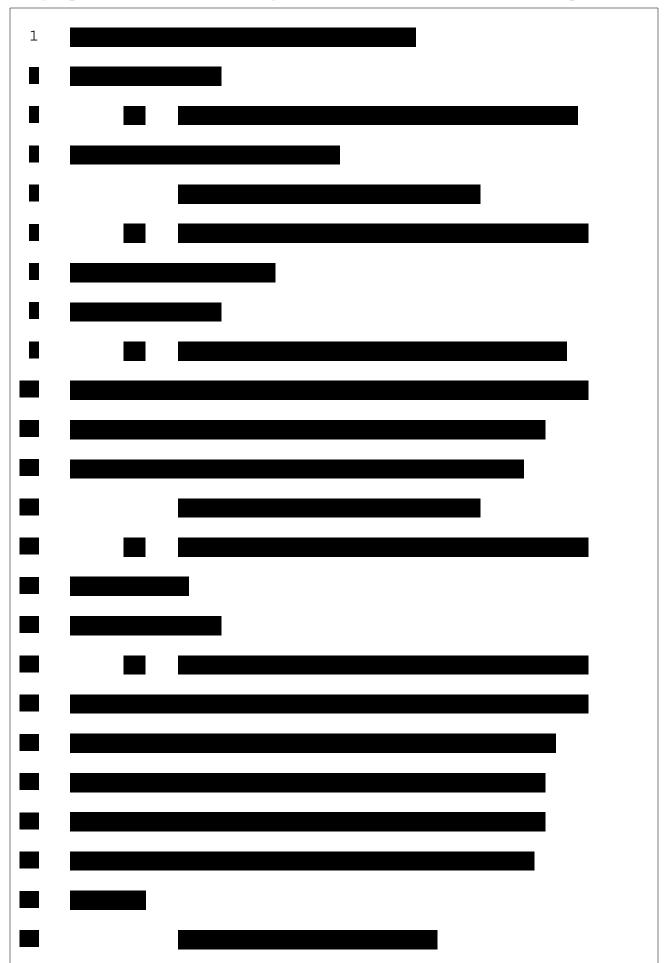


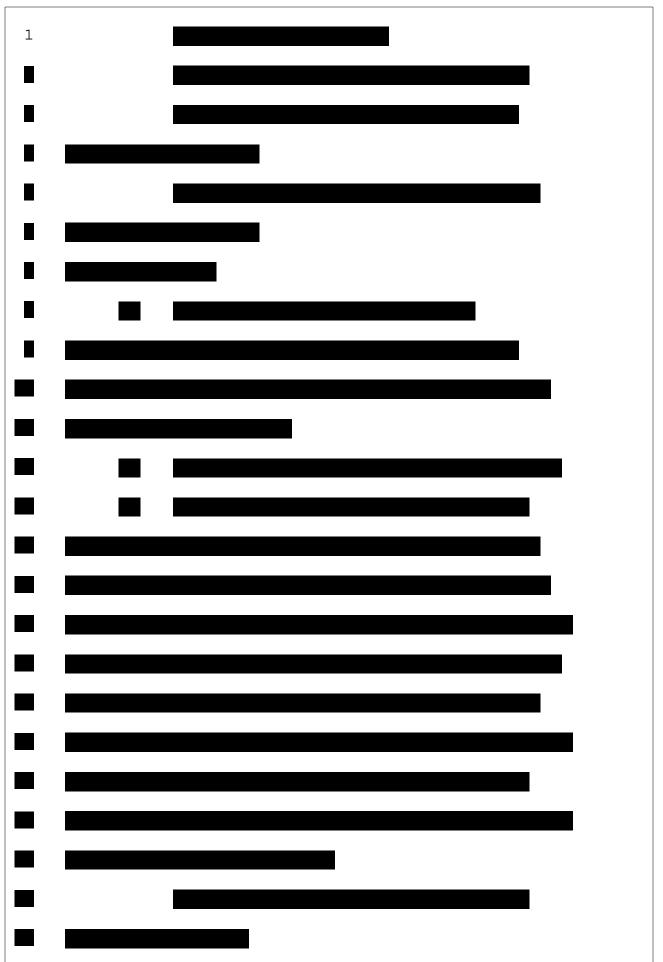


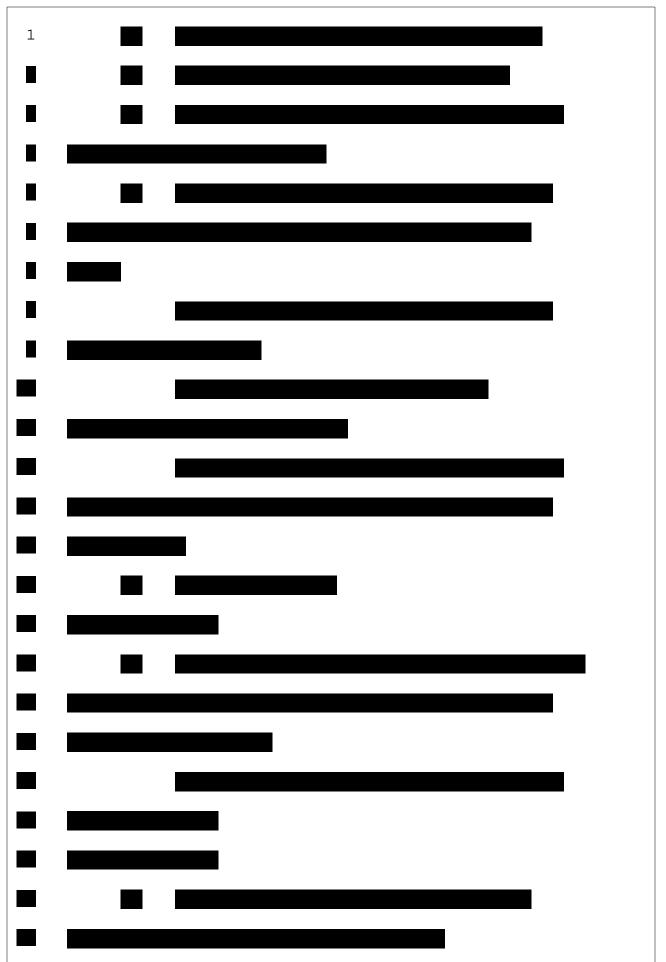


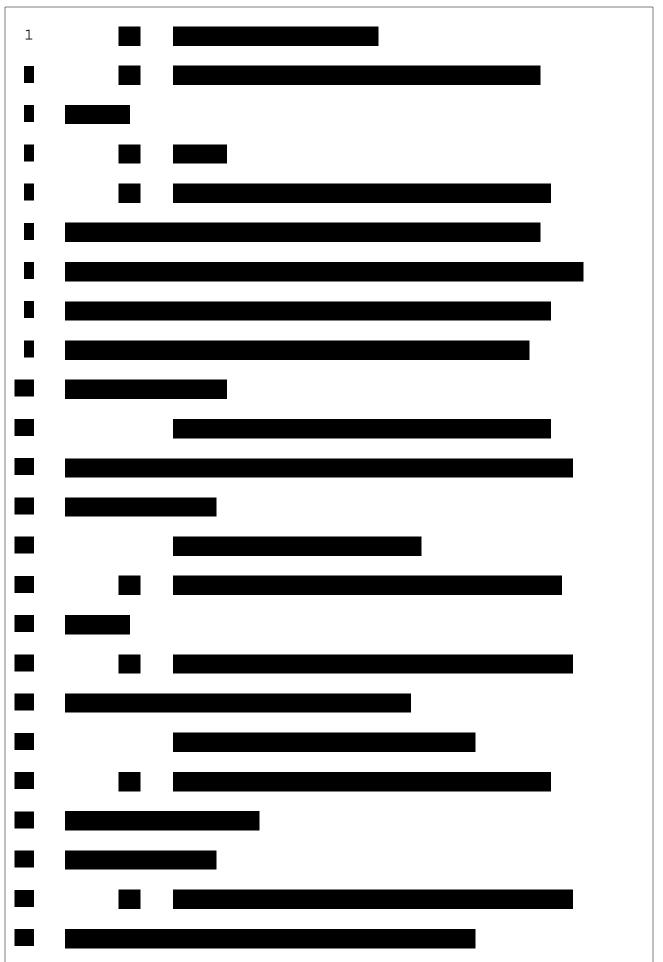


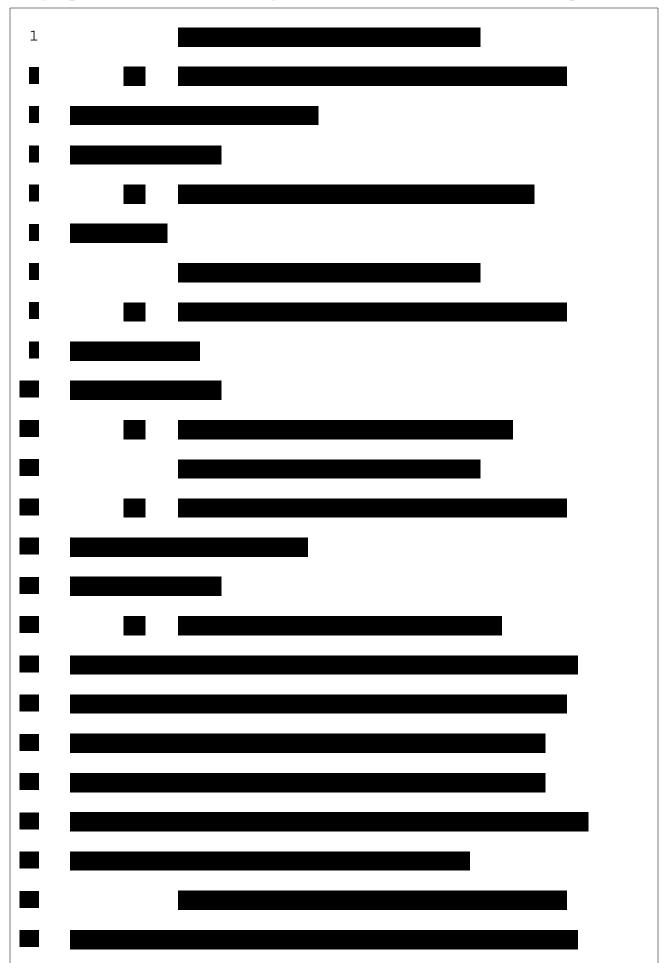




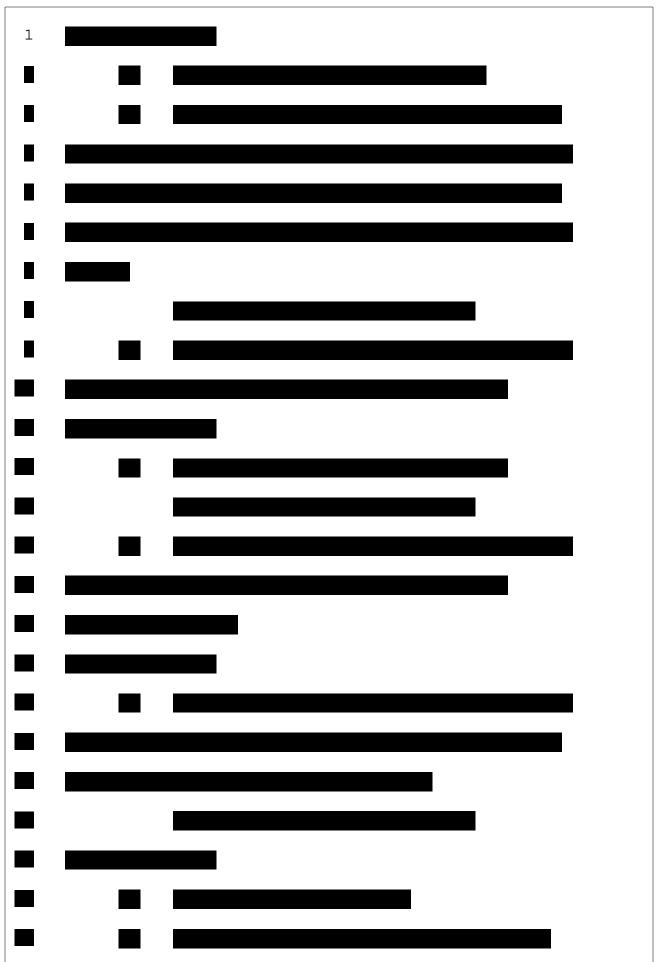


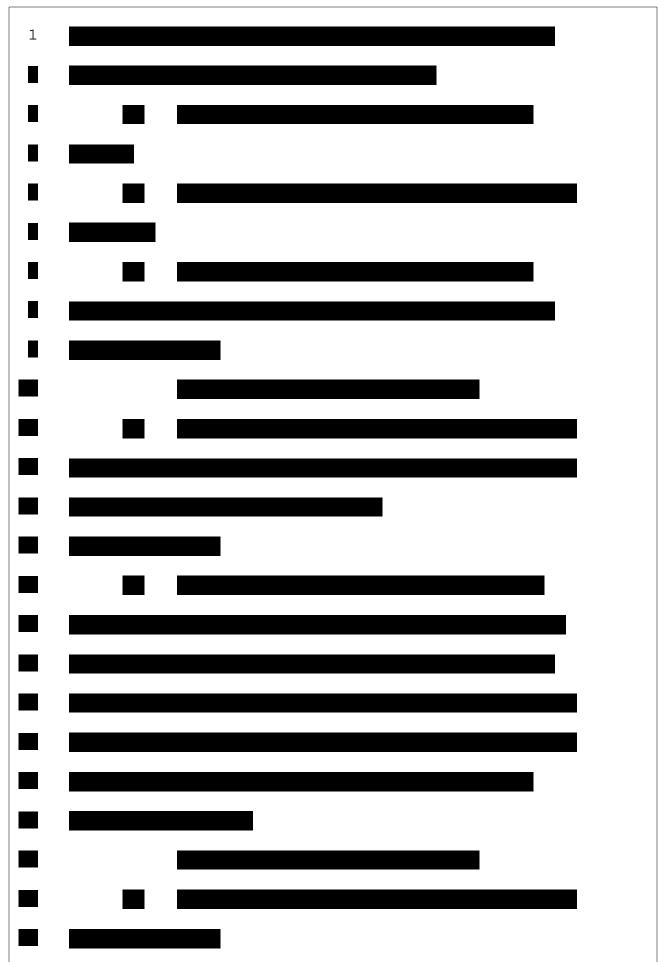


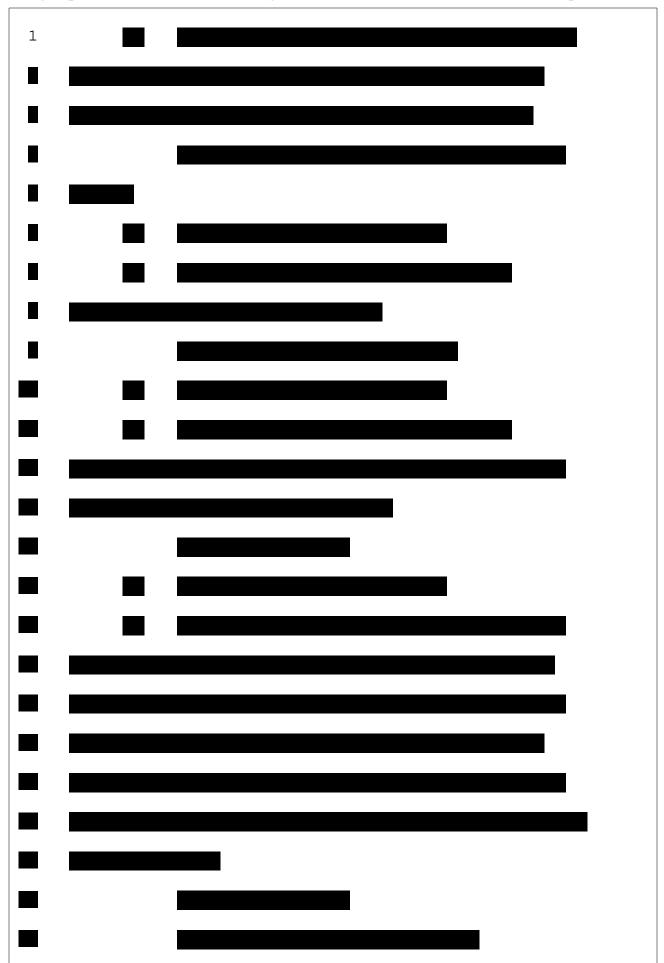




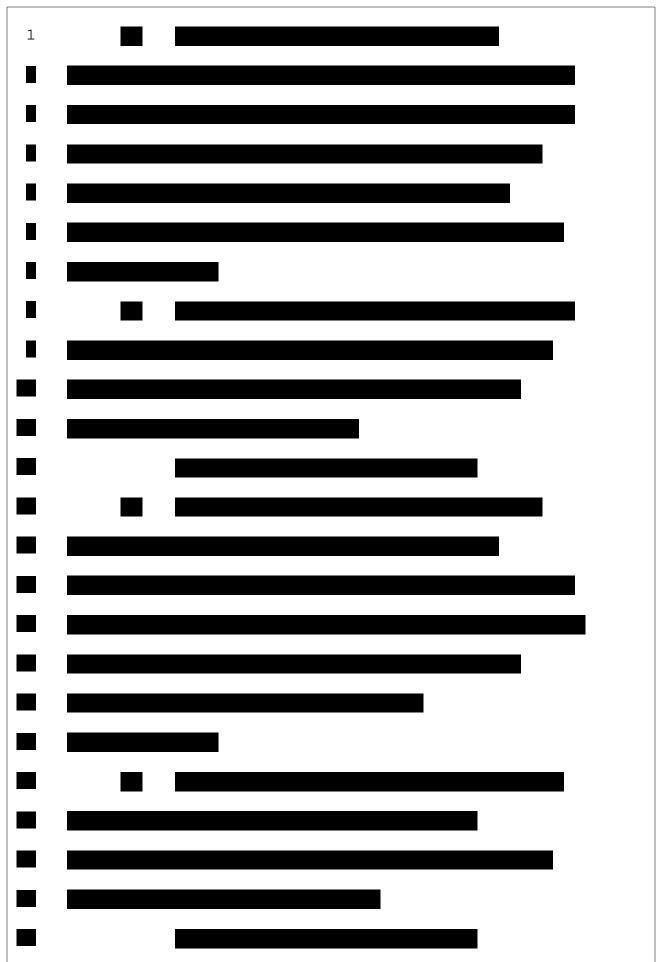
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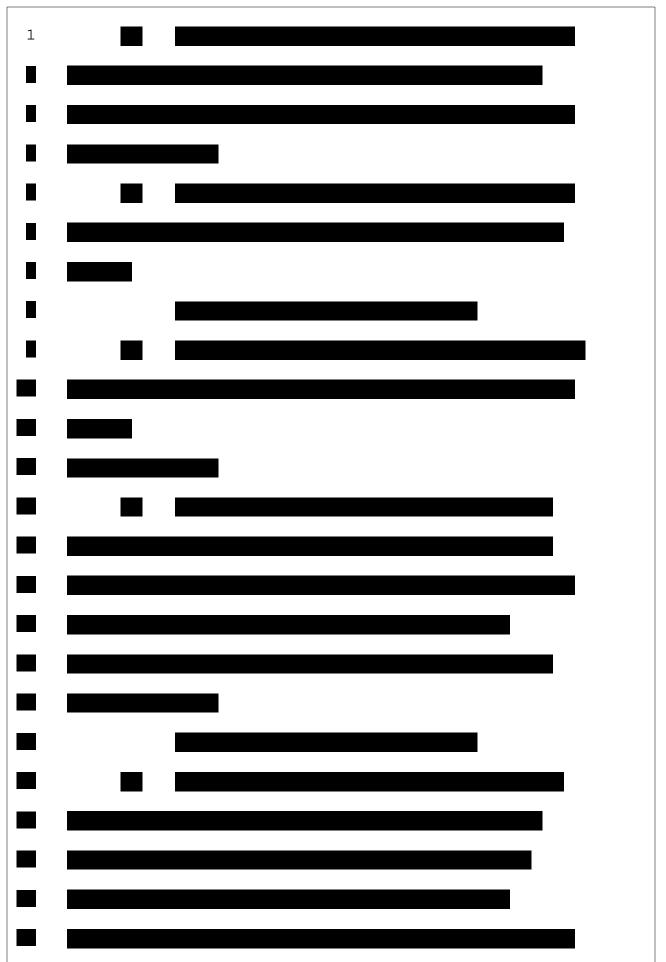


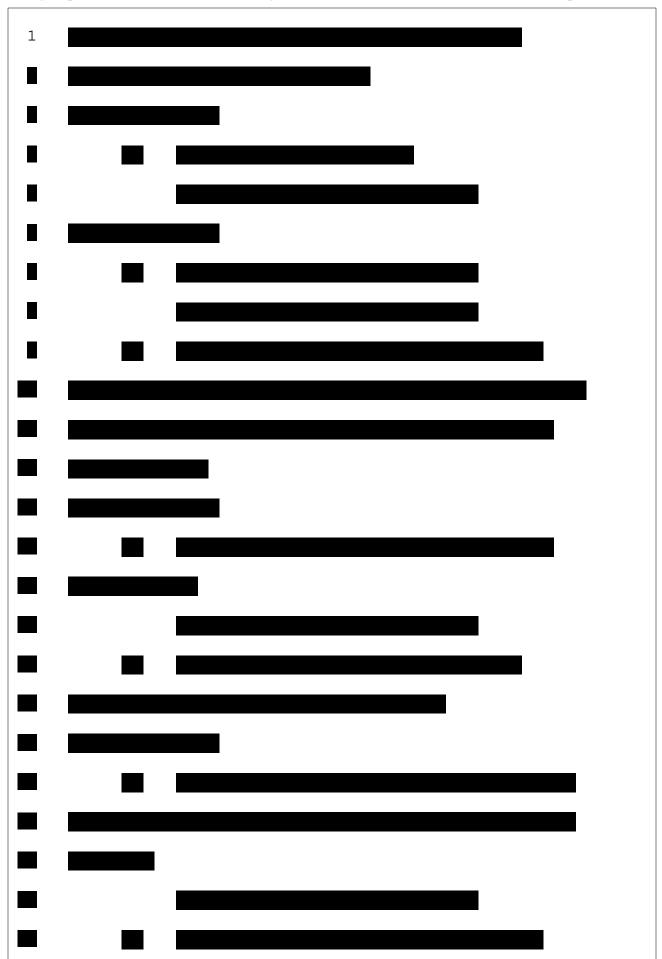


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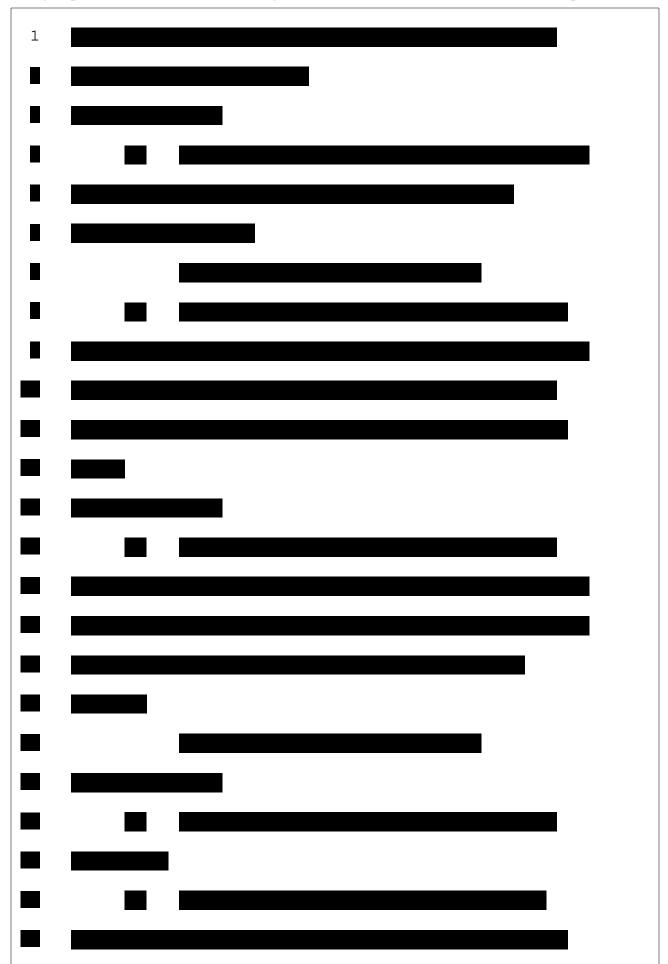


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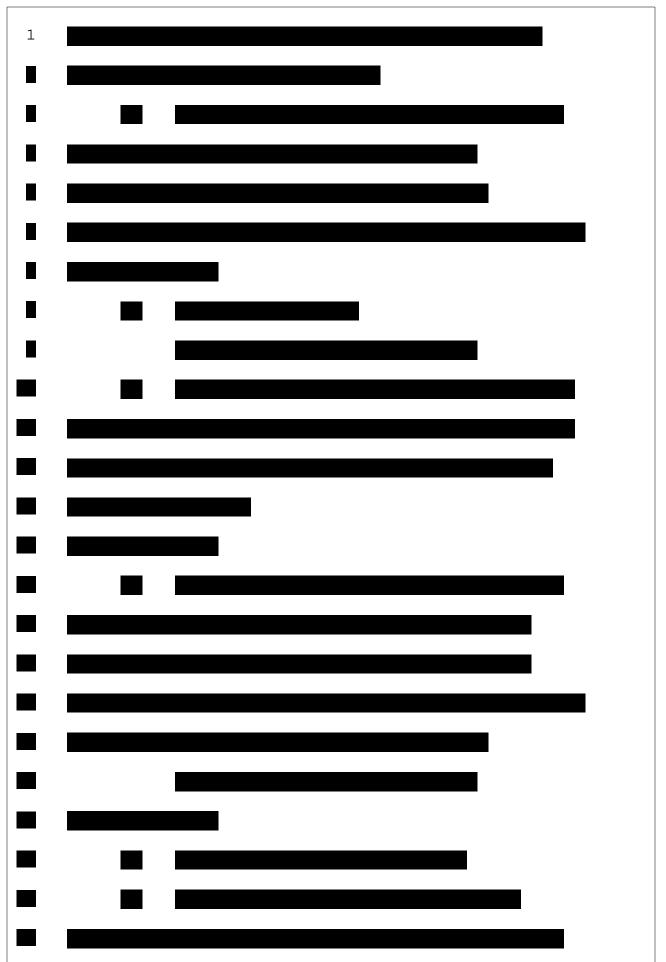




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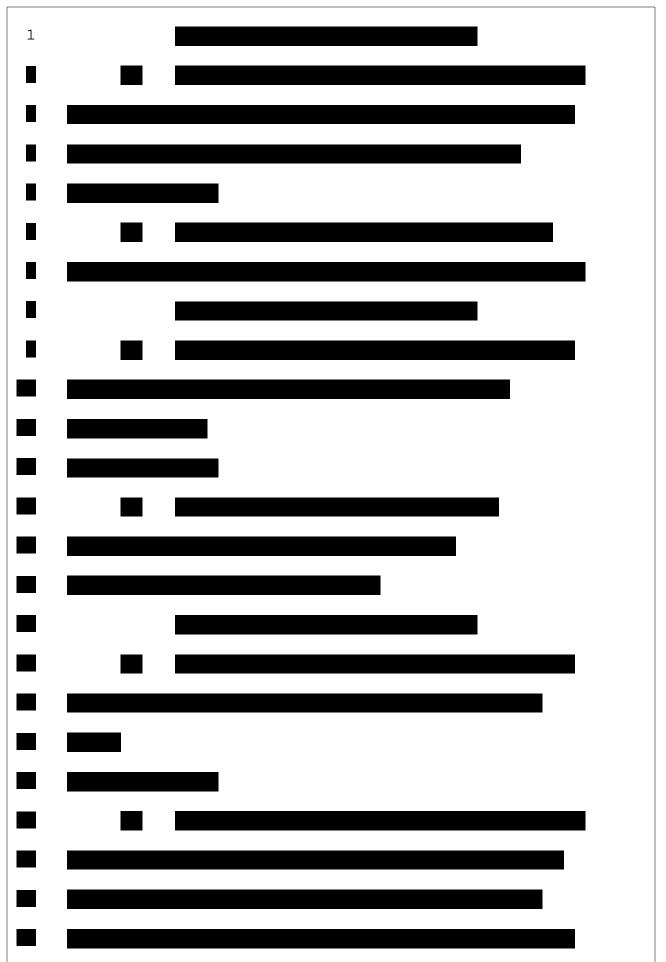


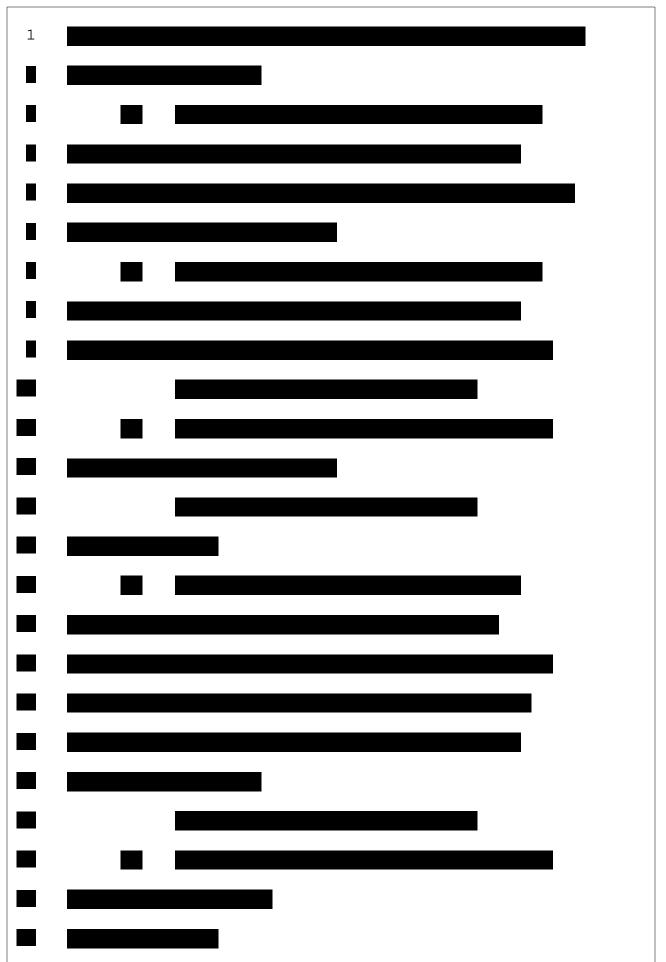
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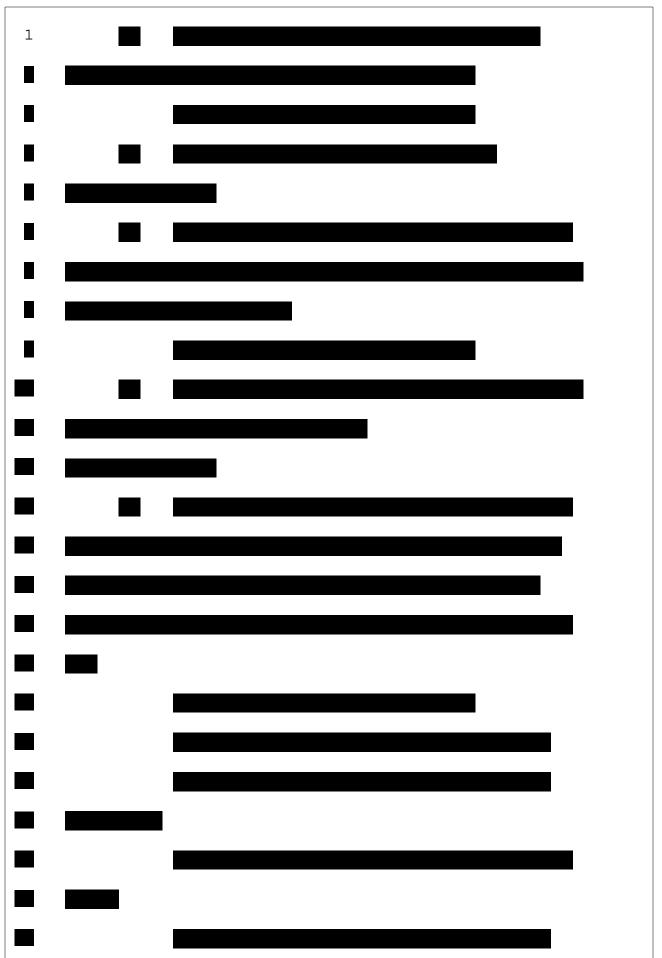


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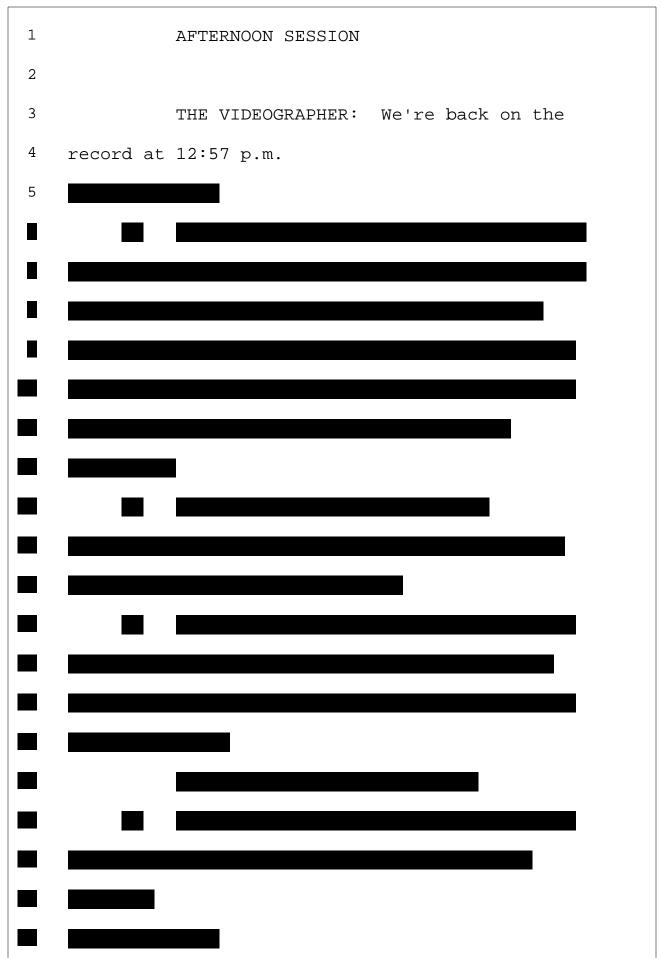


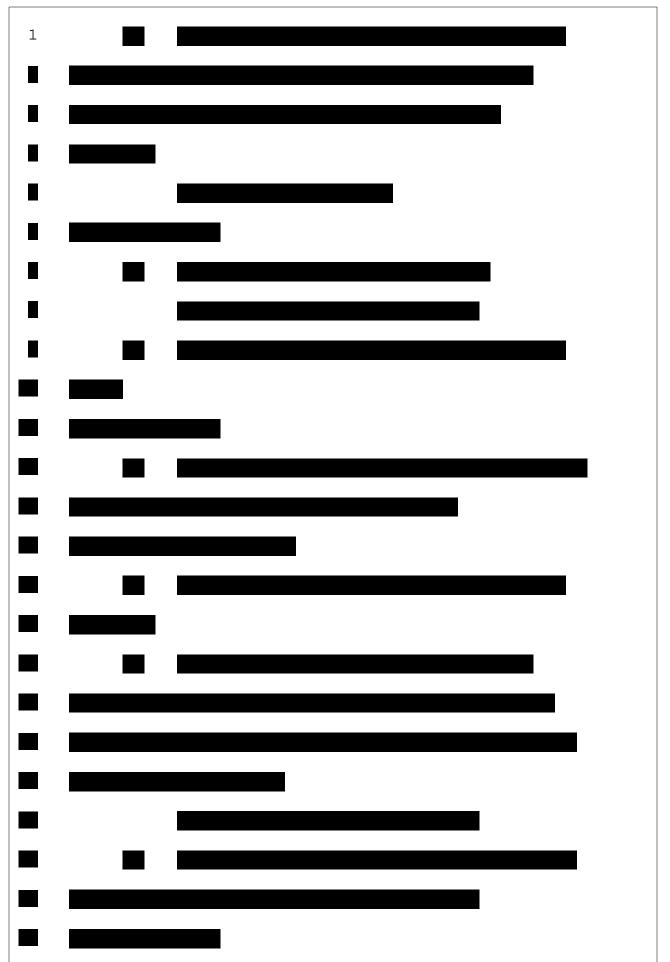


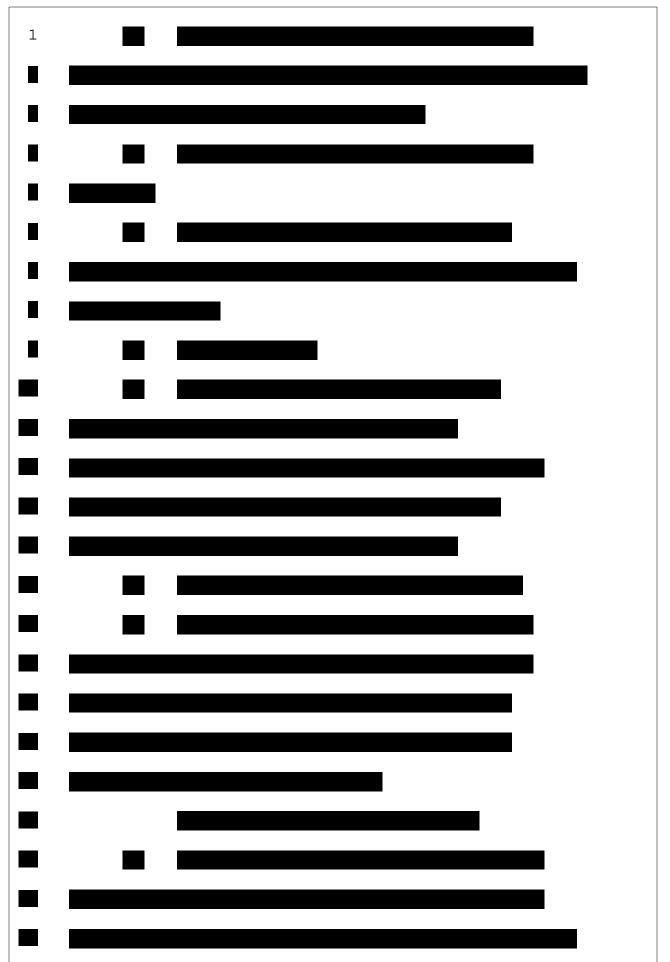


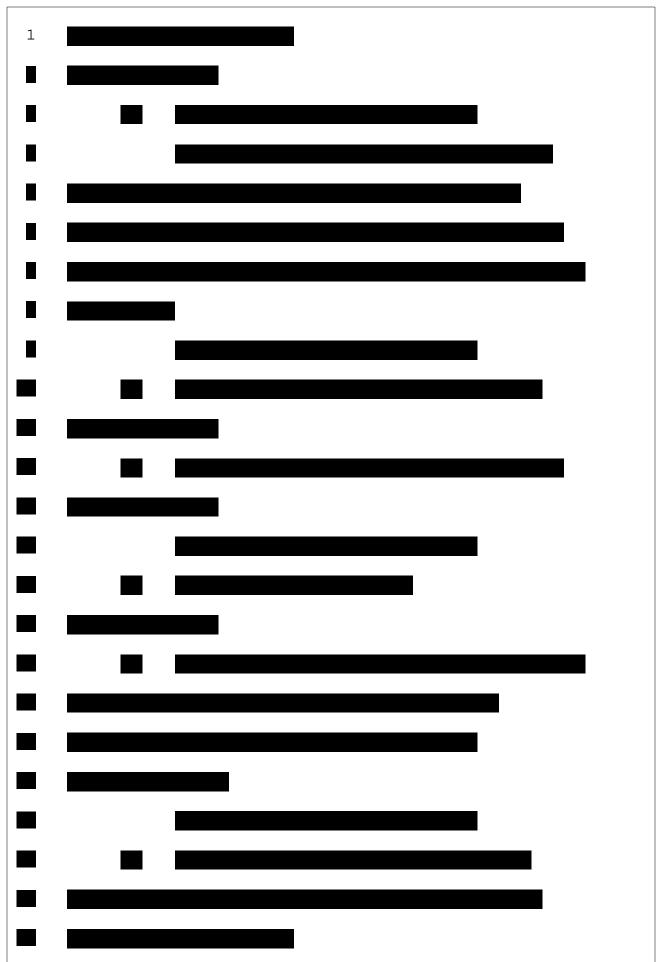


```
1
 4
               MS. MILLER: Craig, are you ready for
 5
    a break?
 6
               THE WITNESS: I could use a break
 7
    soon.
 8
               MS. MILLER: Can we take a break?
 9
    We've been going now -- we talked about 12:15.
10
    We've been going at least an hour and
    15 minutes.
11
12
               MR. ELSNER: Okay.
               THE VIDEOGRAPHER: We're going off the
13
14
    record at 12:17 p.m.
15
               (Whereupon, a luncheon recess was
16
               taken.)
17
18
19
20
21
22
23
24
```

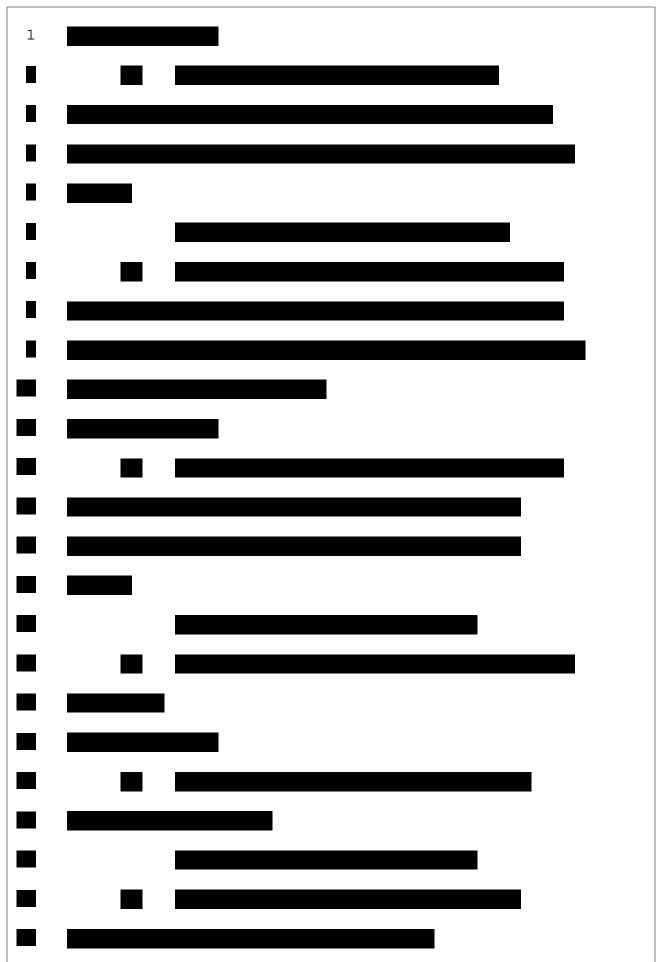




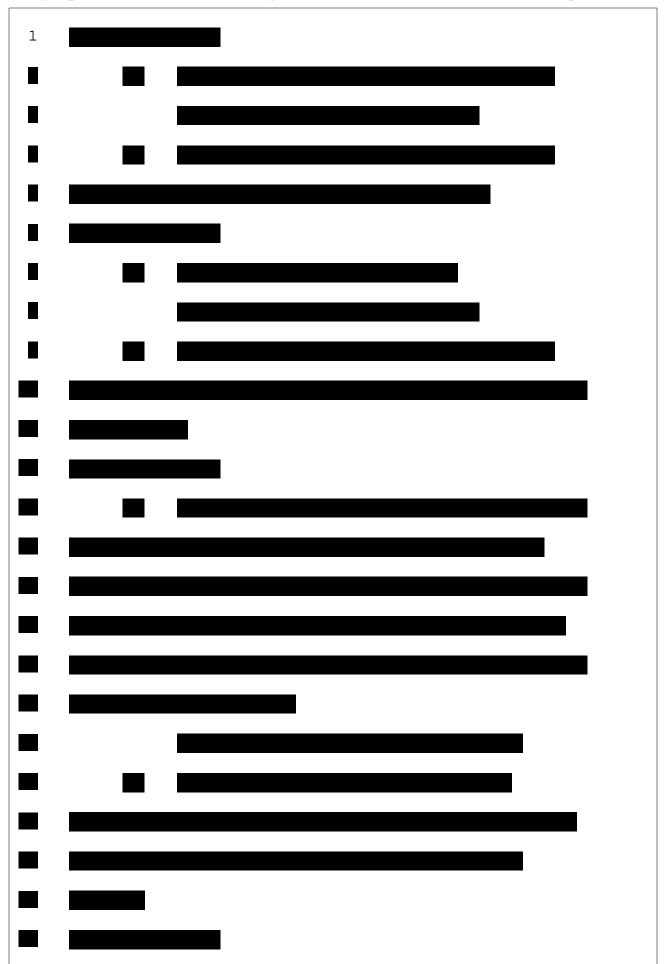


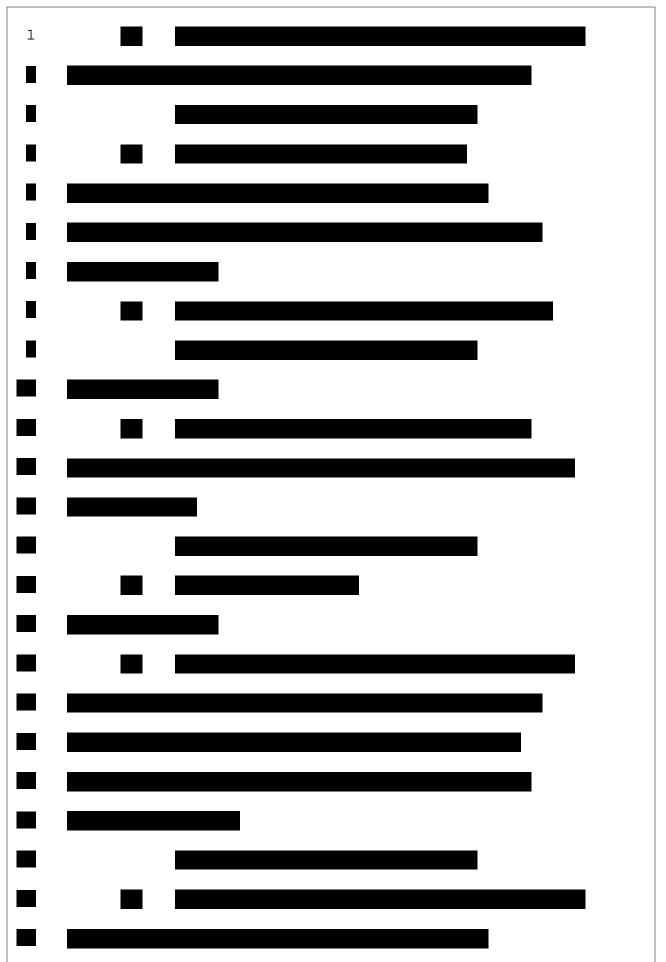


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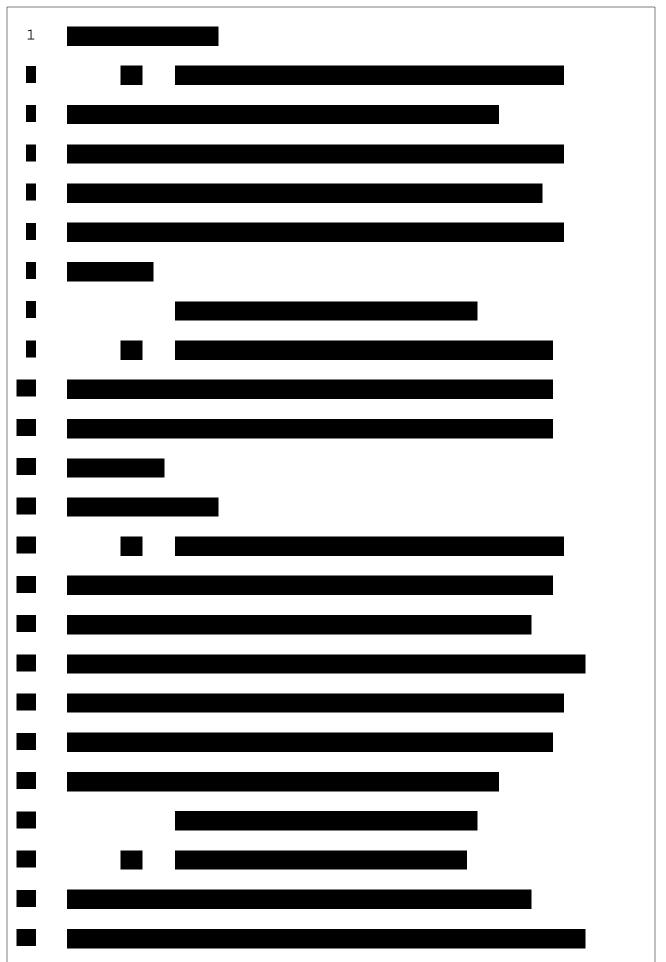


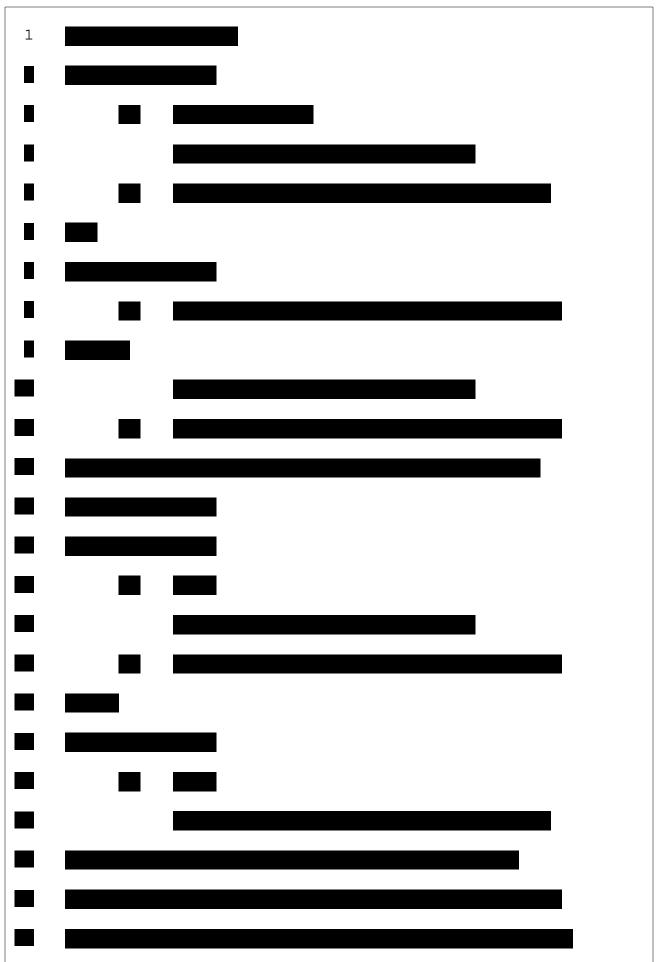
Case: 1:17-md-02804-DAP\_Dog#: 2177-2 Filed: 08/12/19 219 of 393 PageID #: 318248 Fighly Confidential - Subject to Further Confidential ty Review

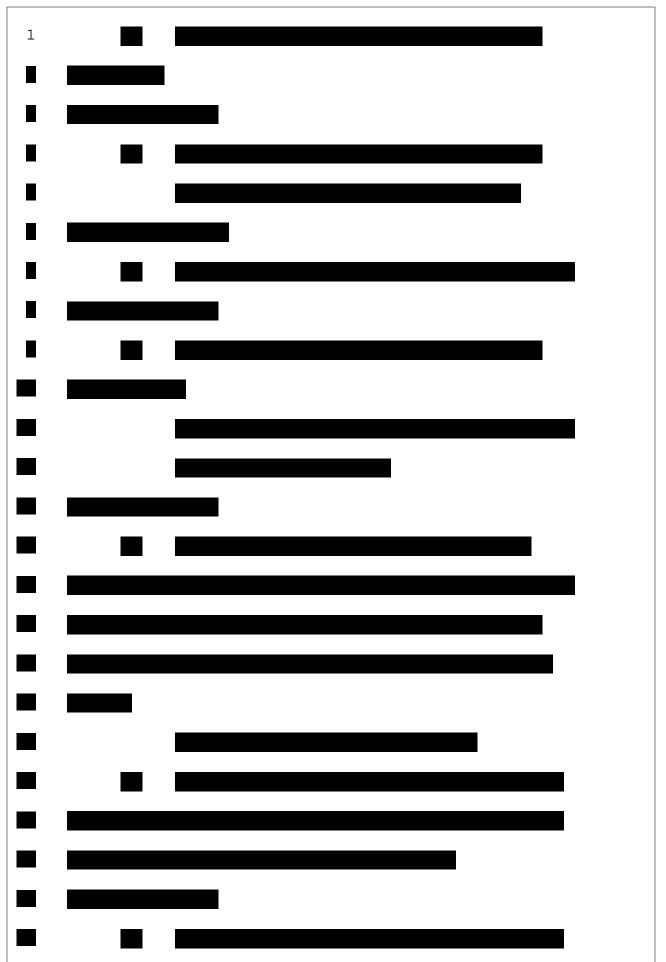


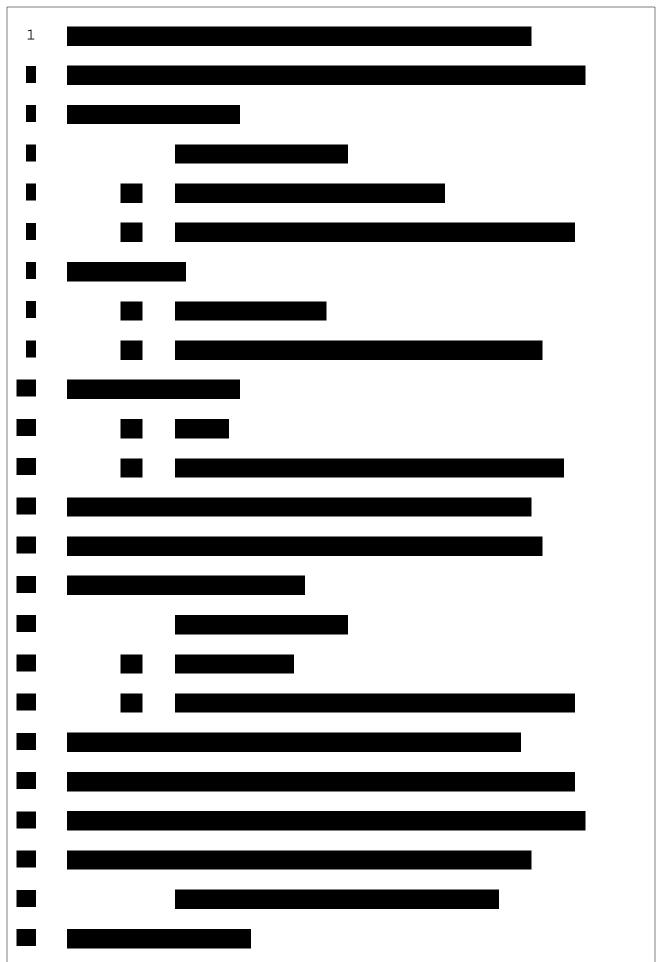


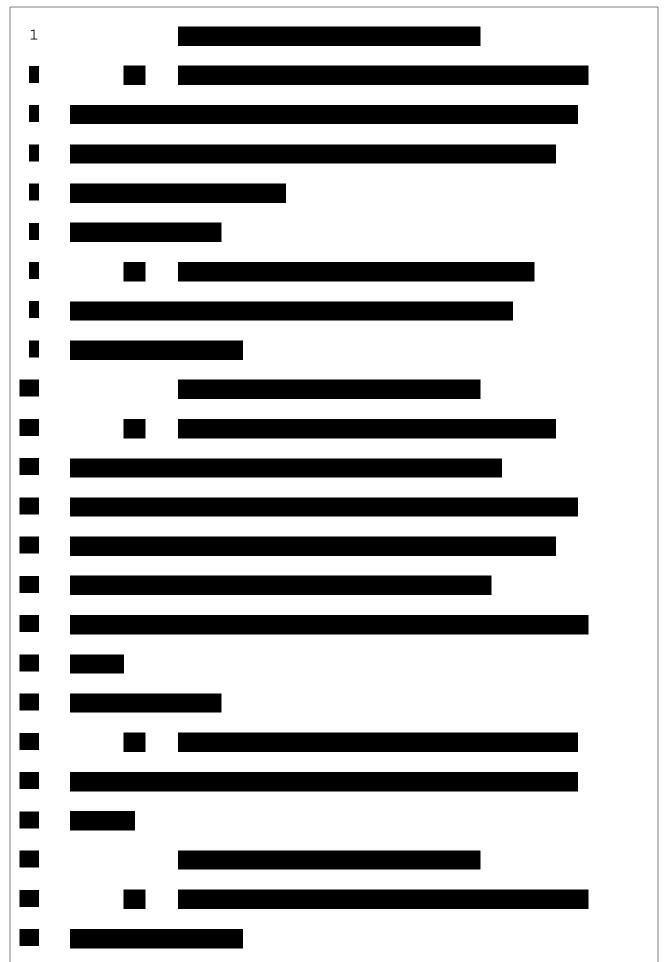
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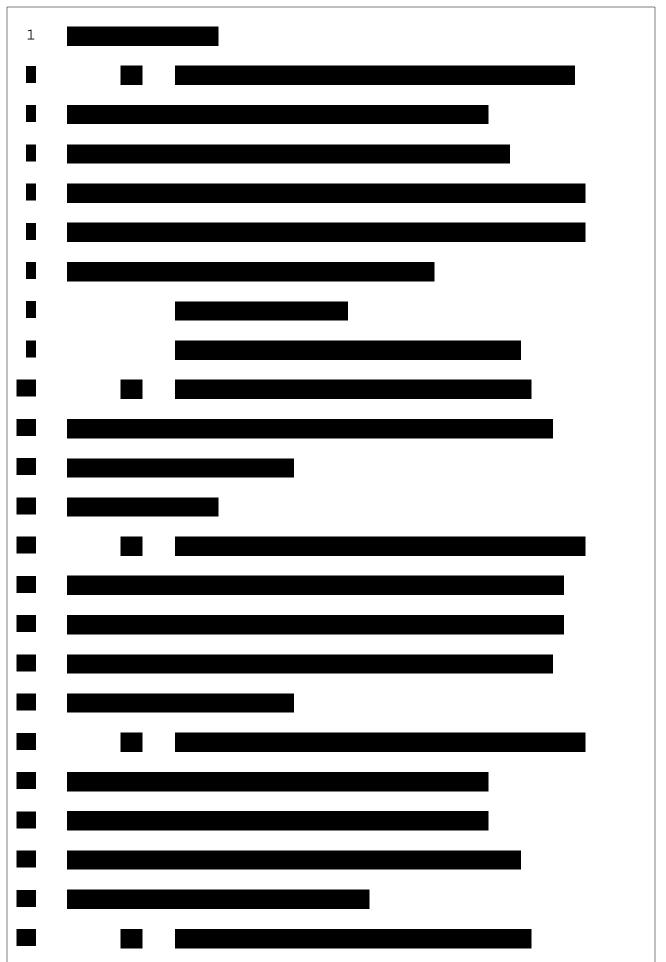




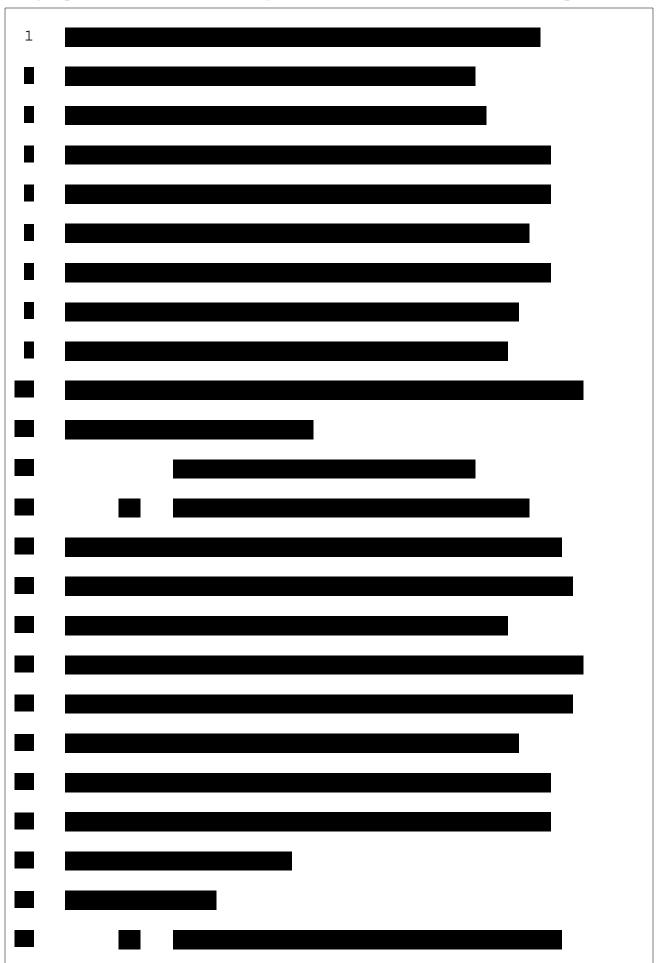




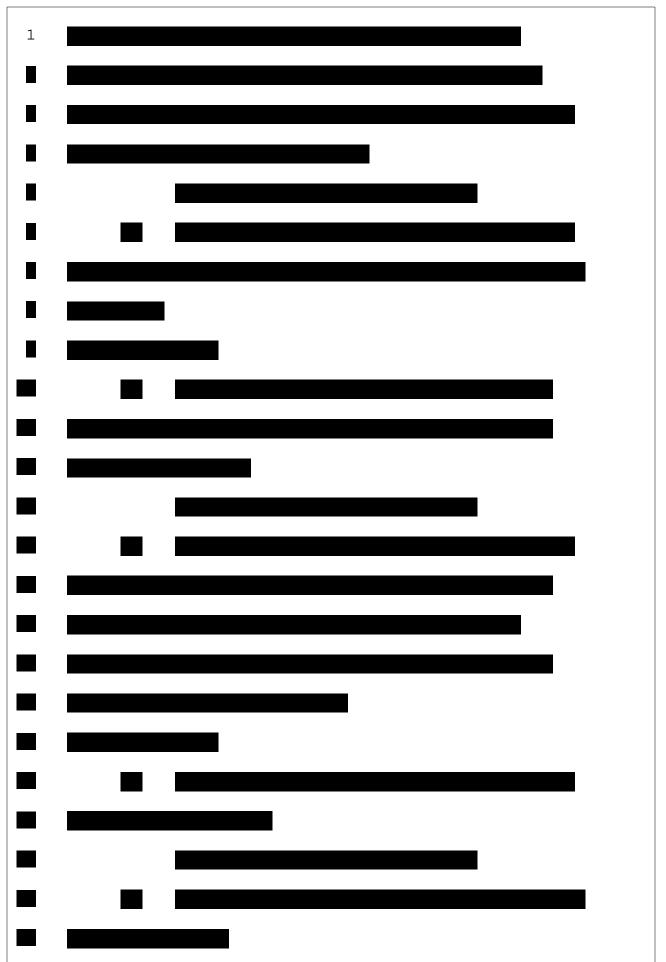


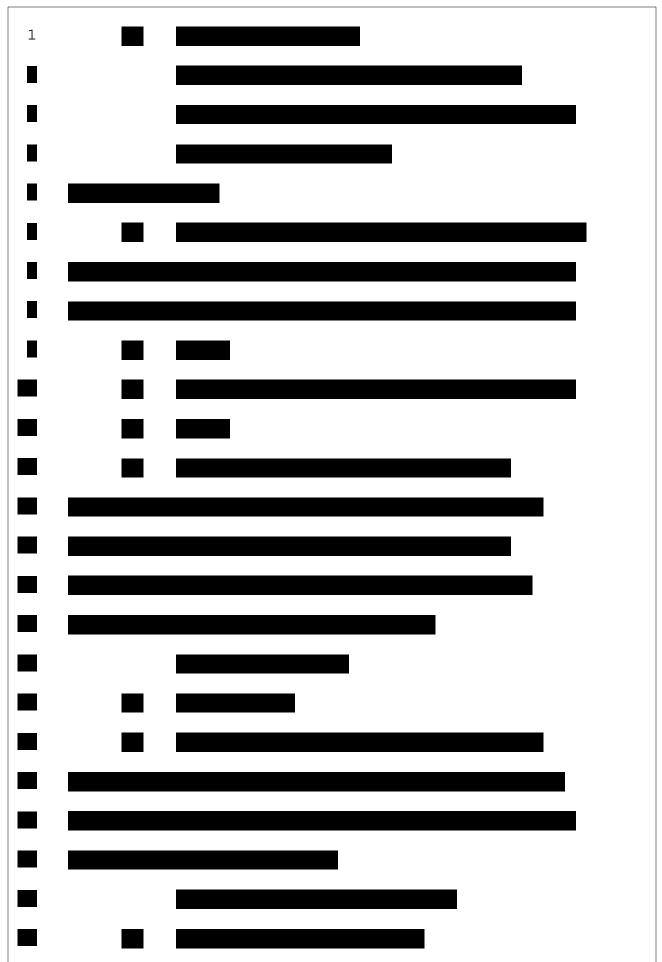


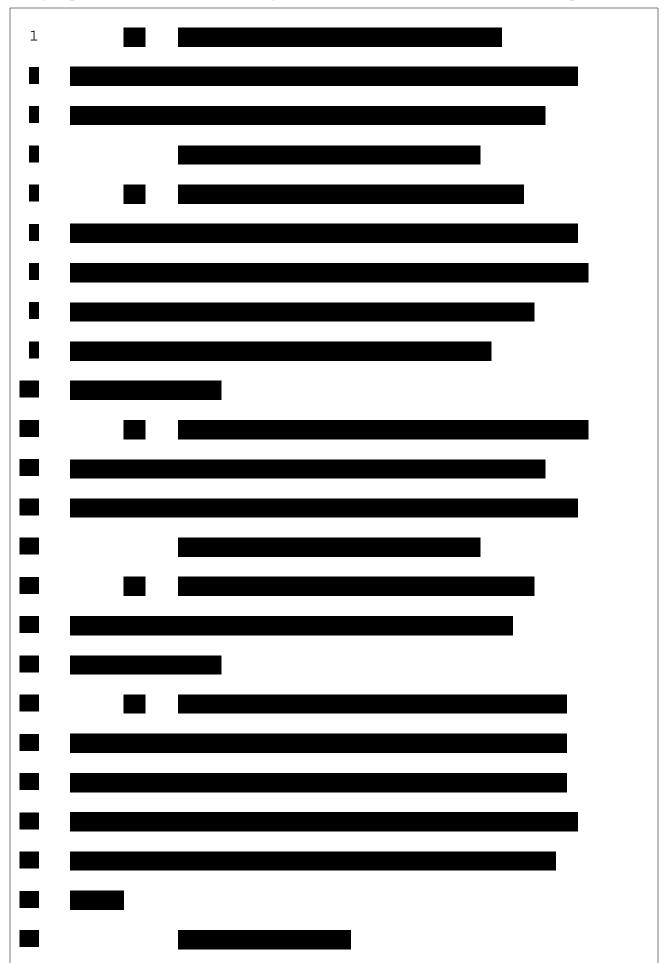
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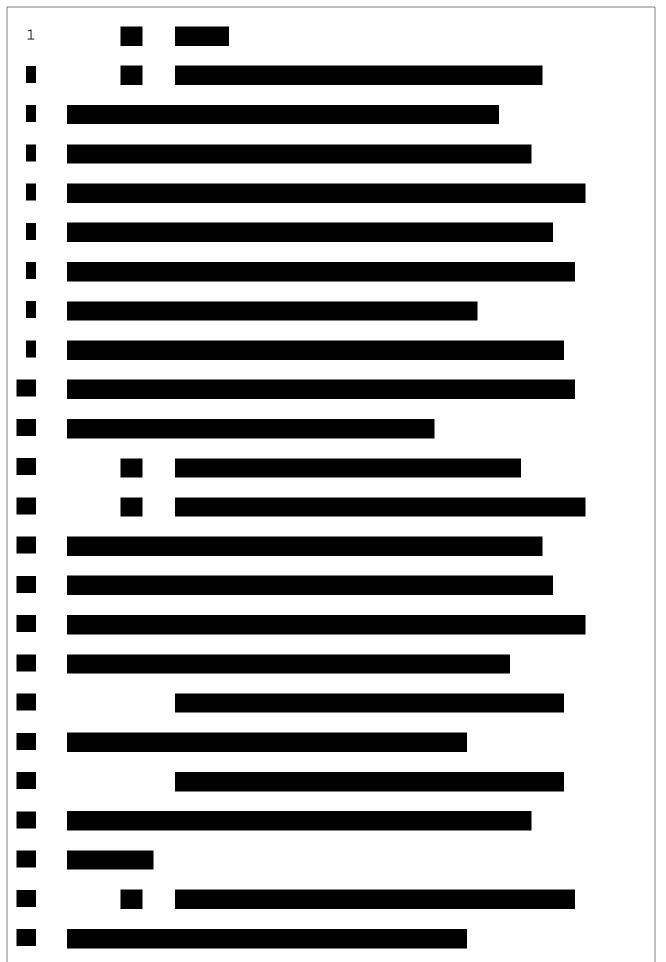


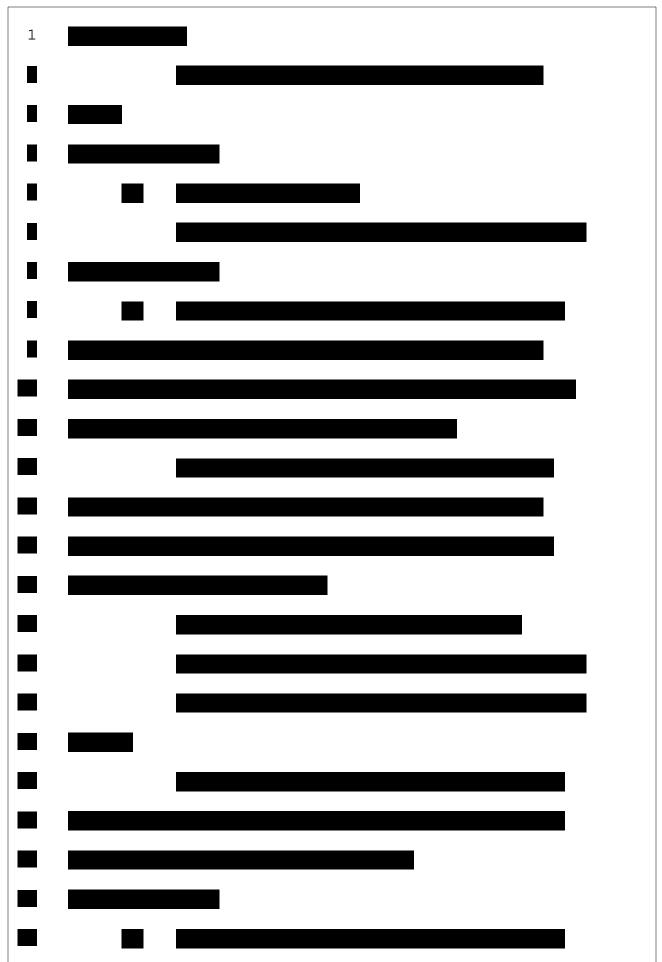
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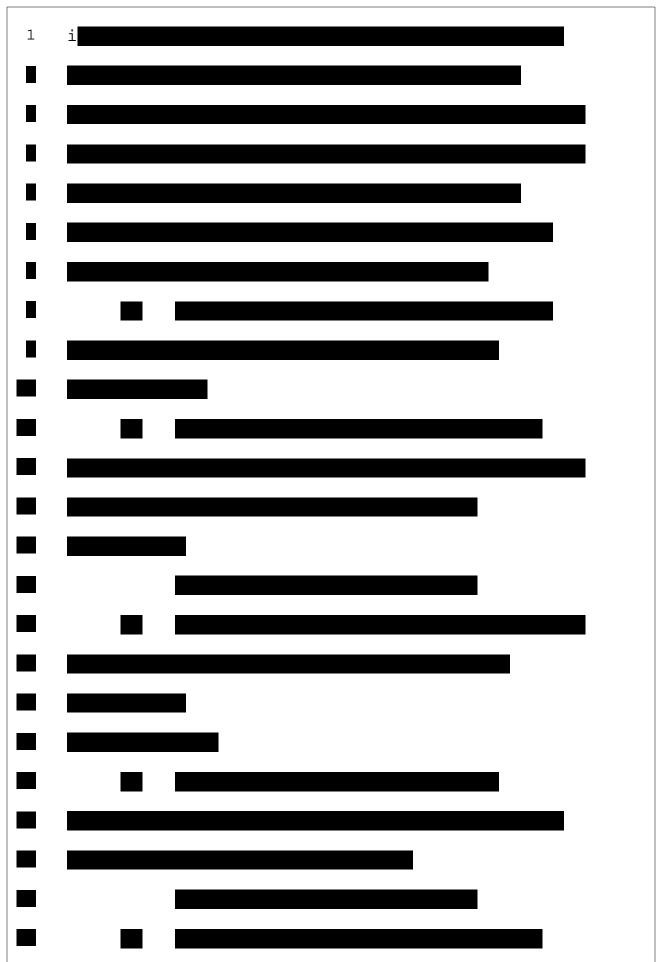




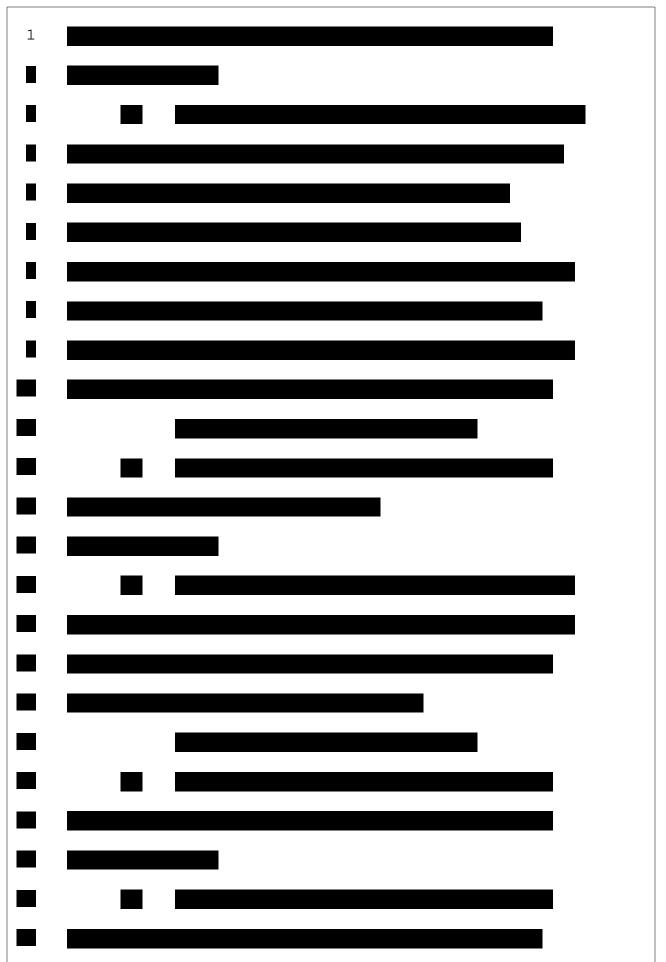


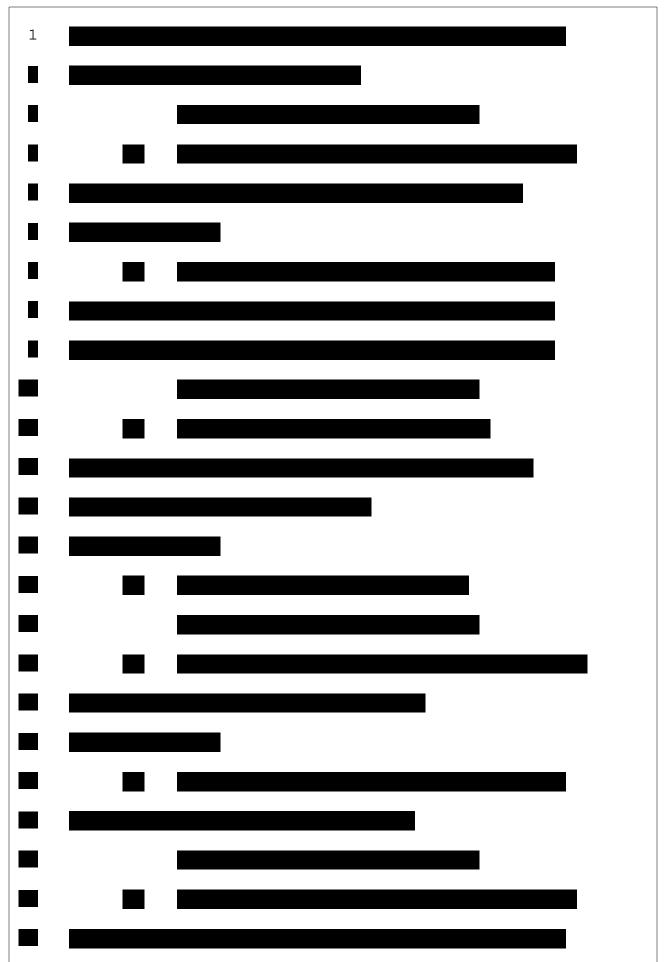


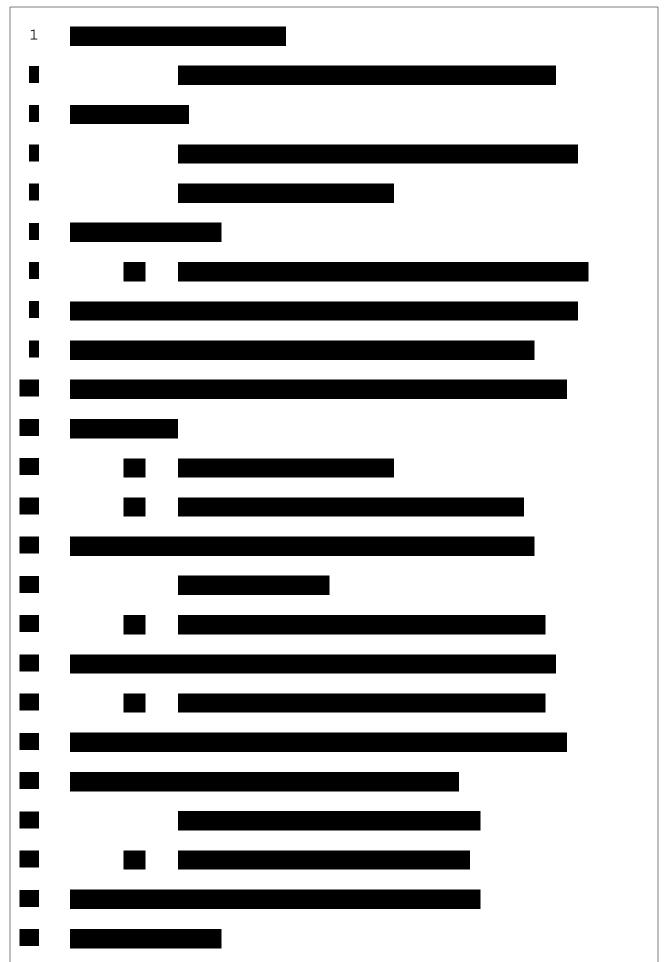


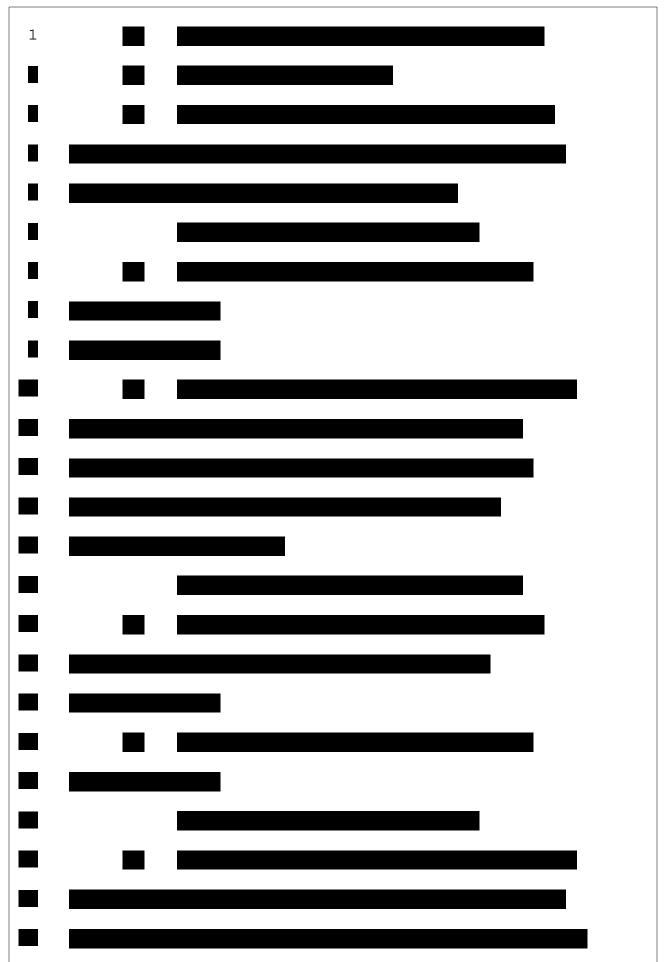


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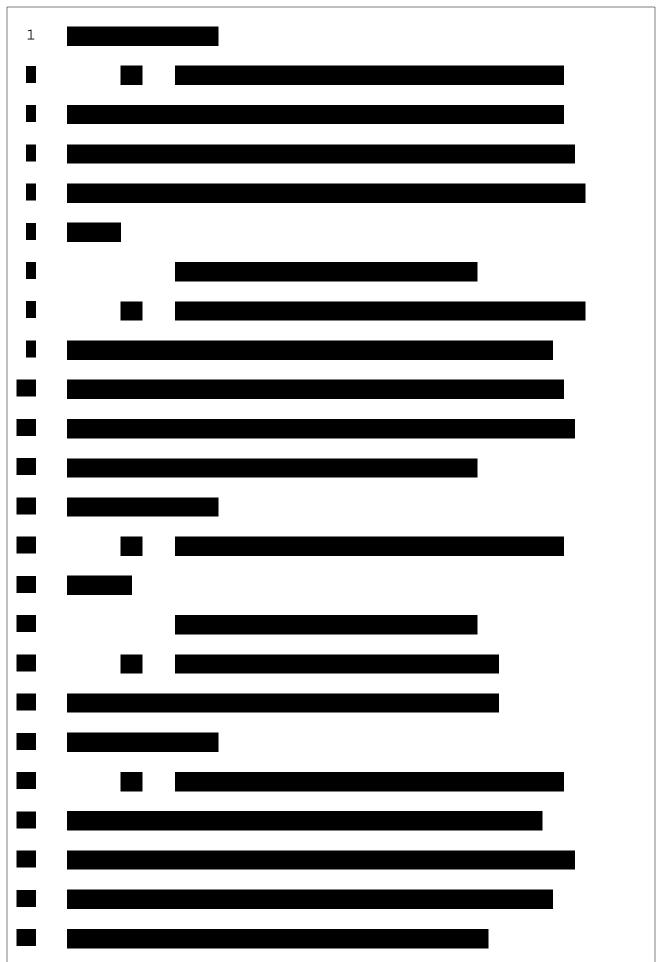


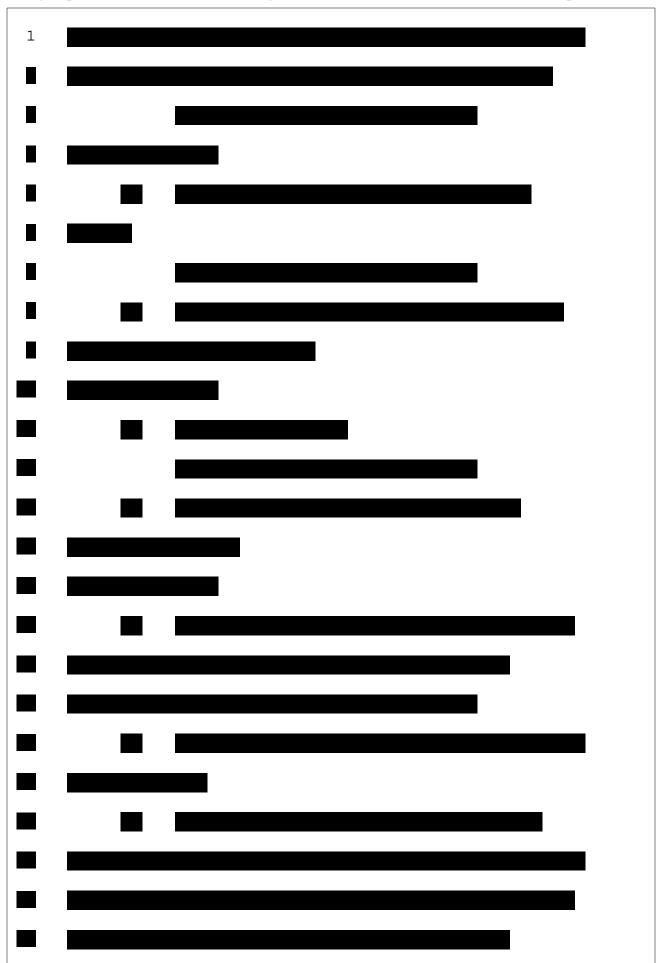


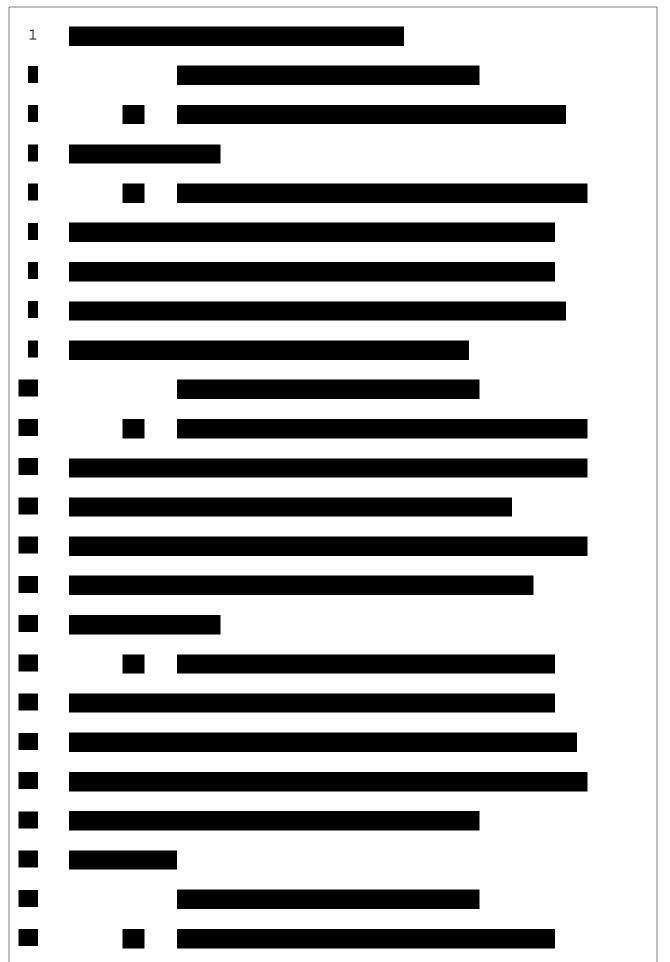


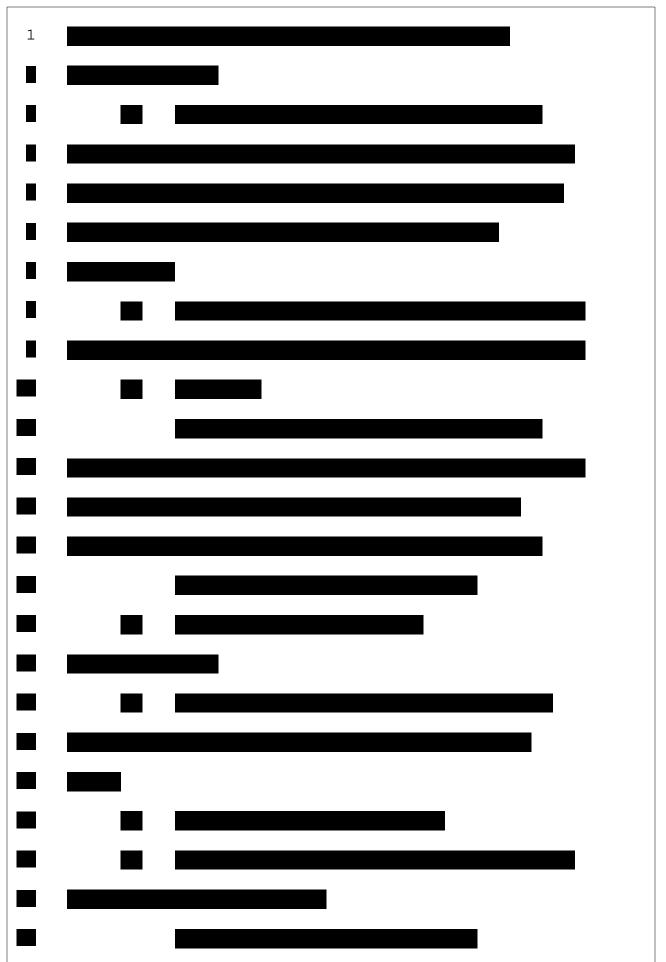


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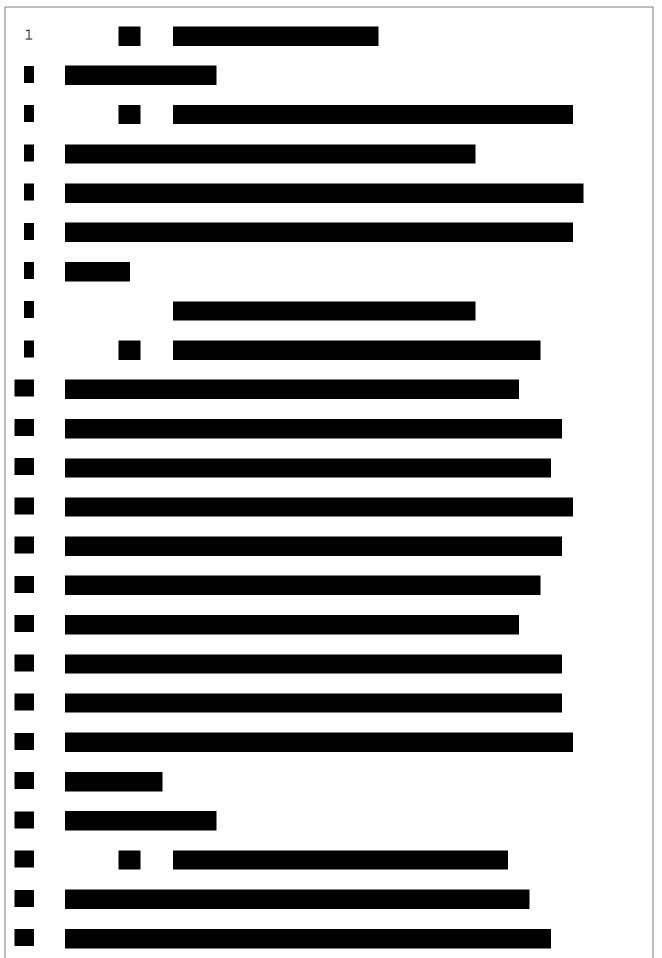


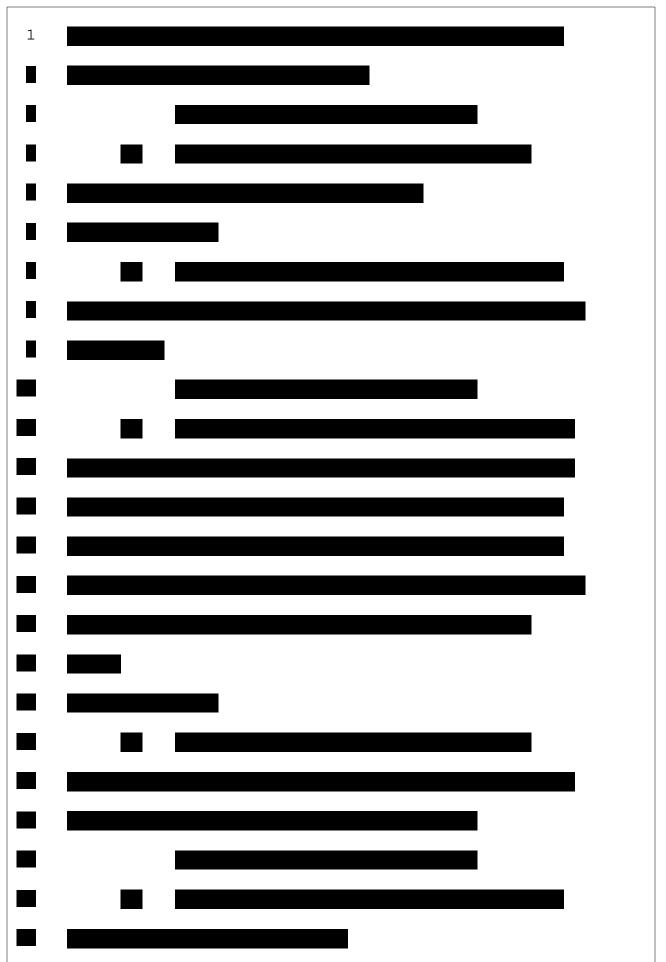


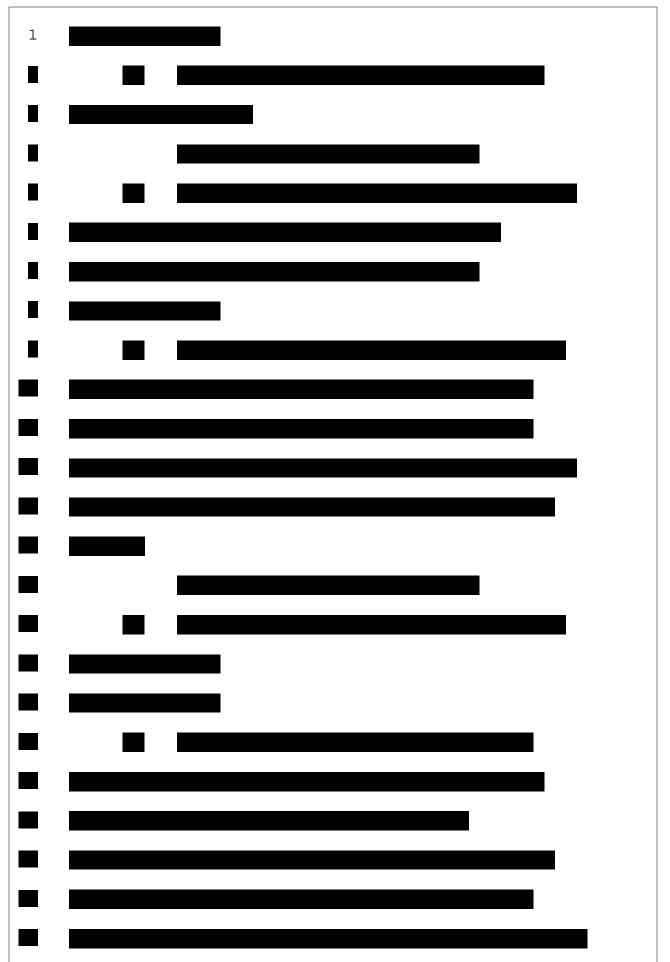


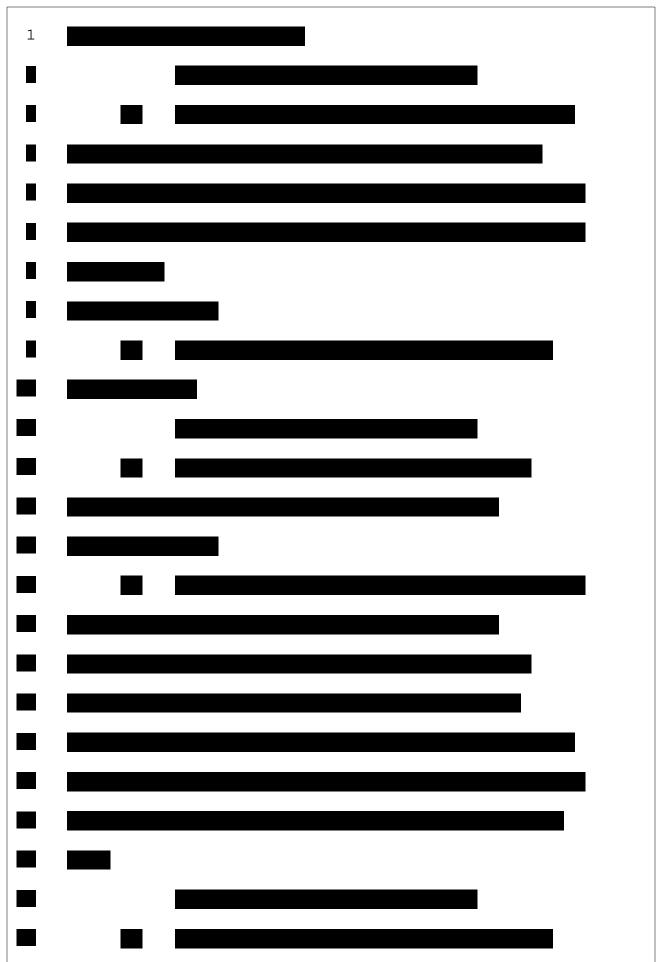


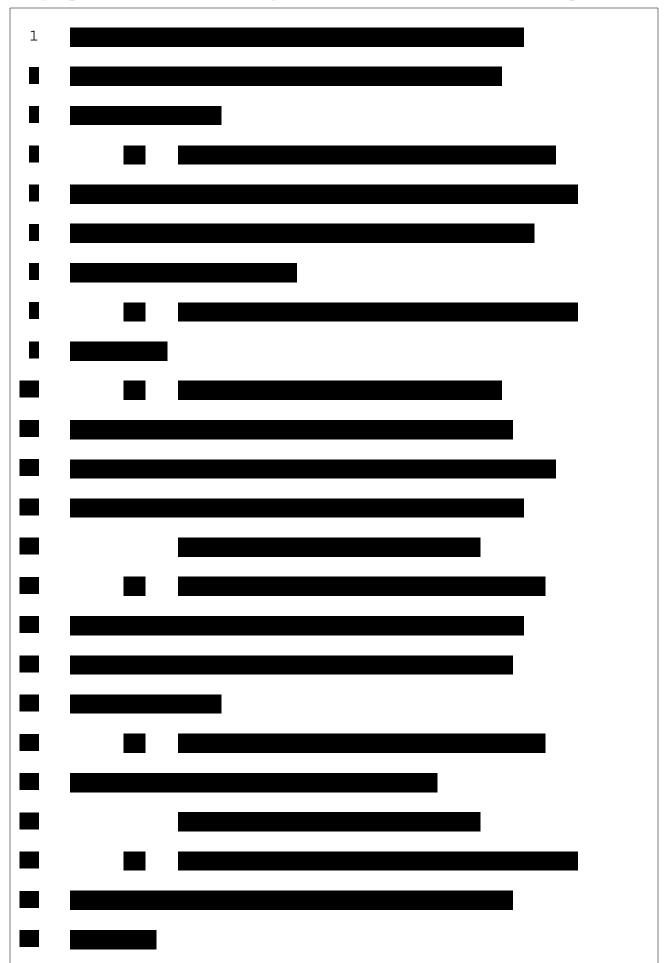
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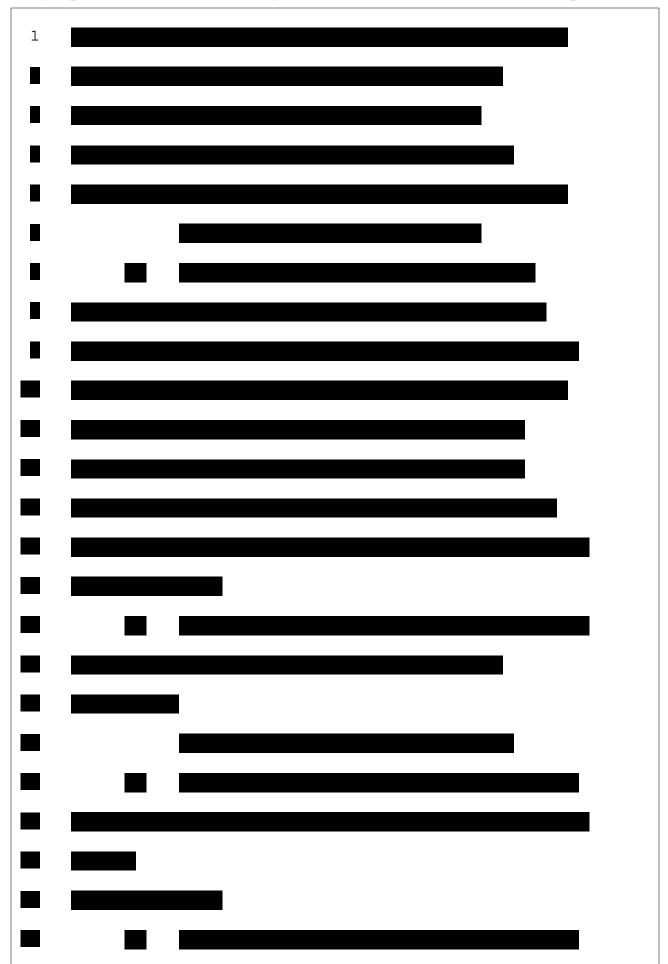




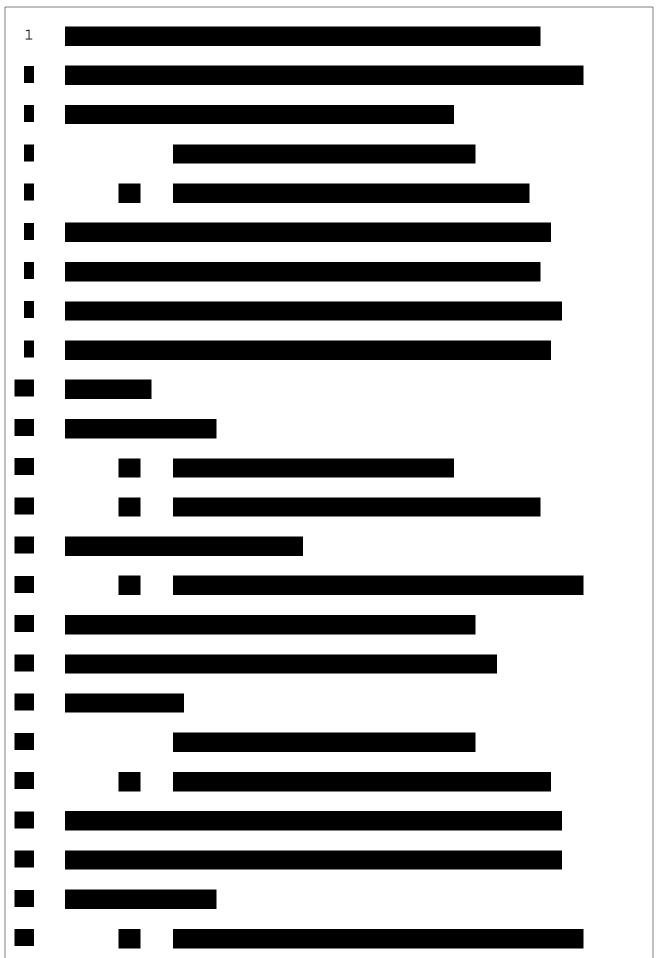


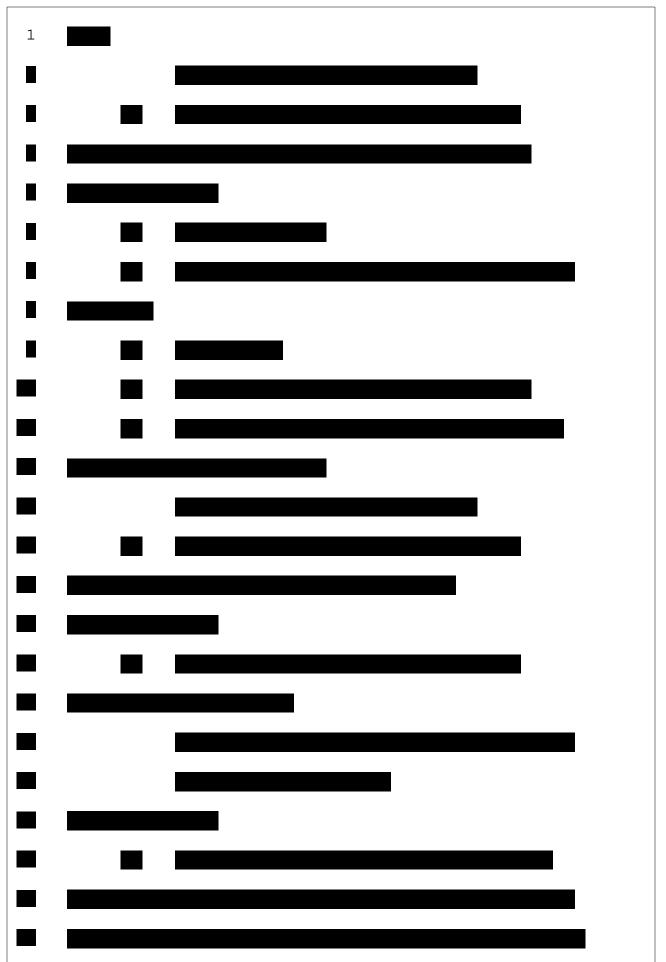


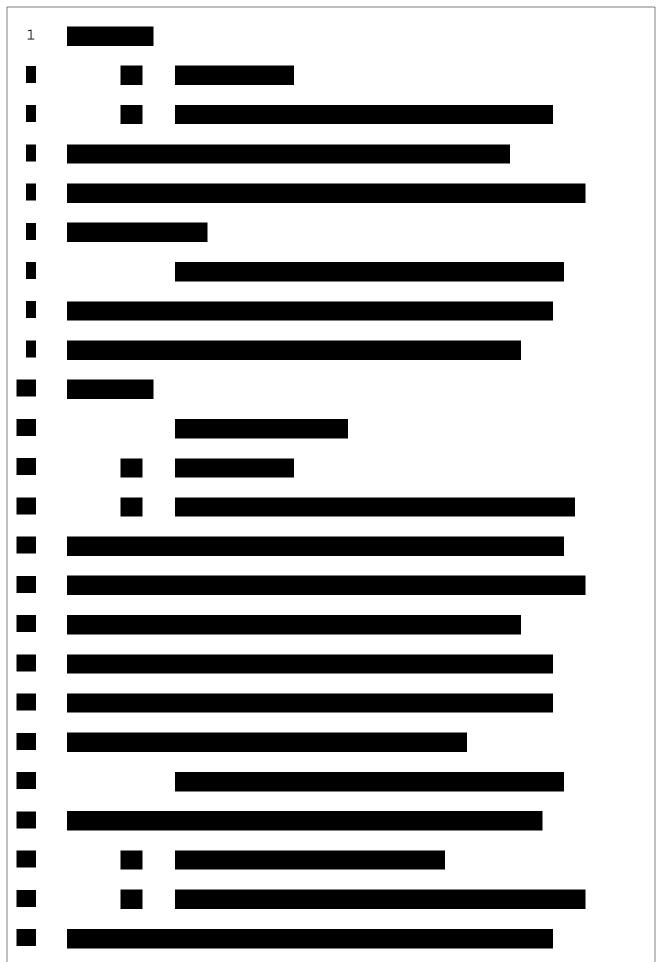
Case: 1:17-md-02804-DAP\_Dog#: 2177-2 Filed: 08/12/19 248 of 393 PageID #: 318277. Highly Confidential - Subject to Further Confidential ty Review

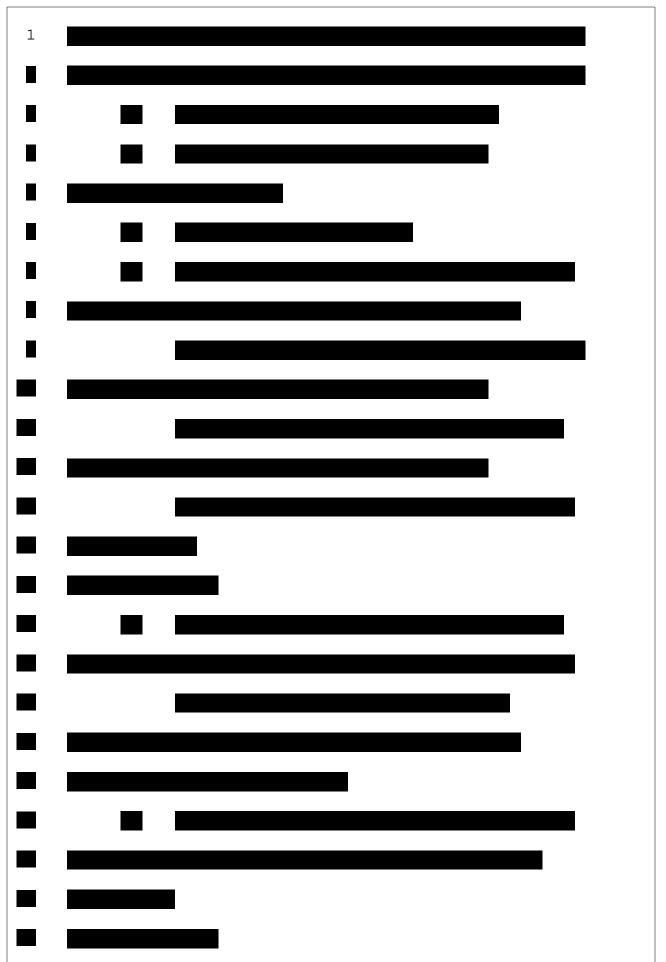


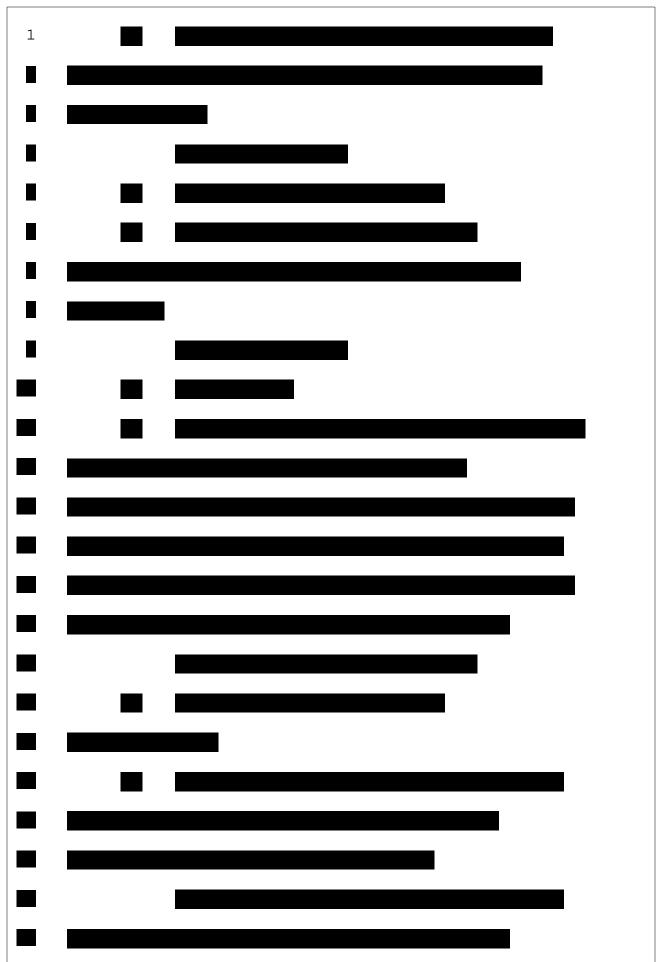
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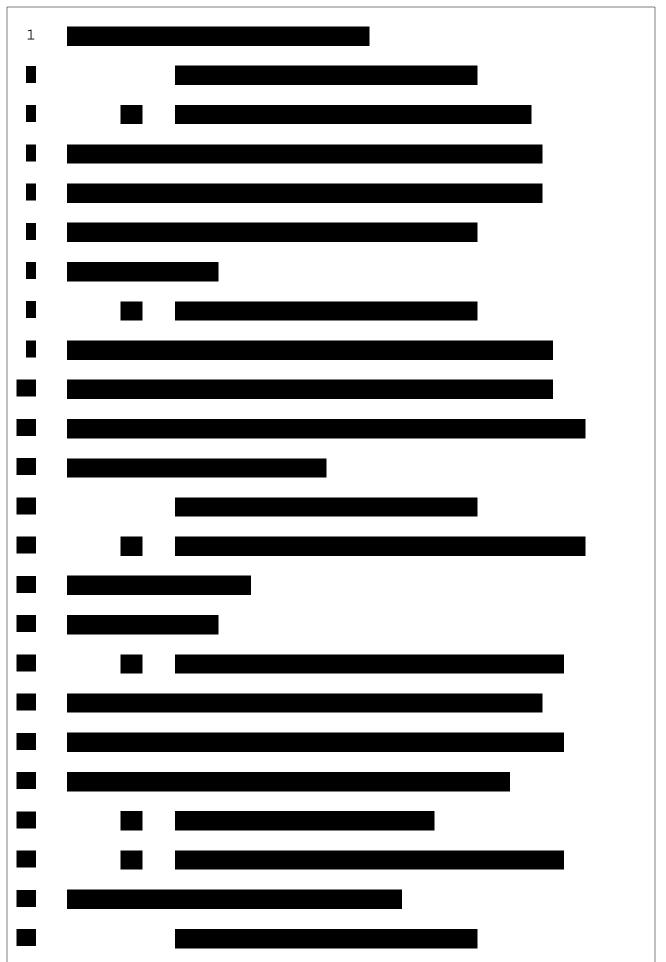


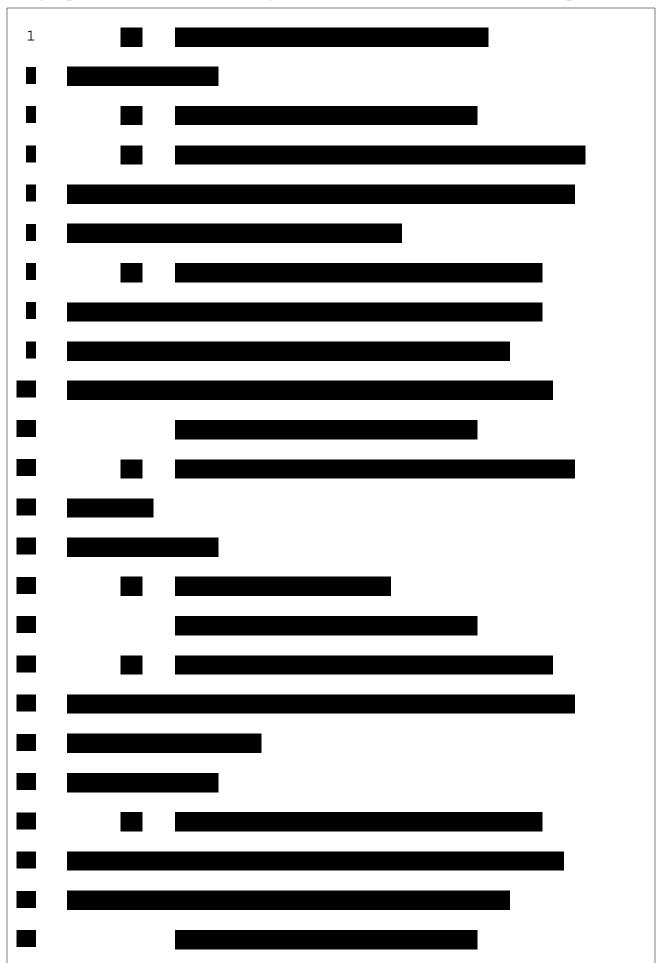


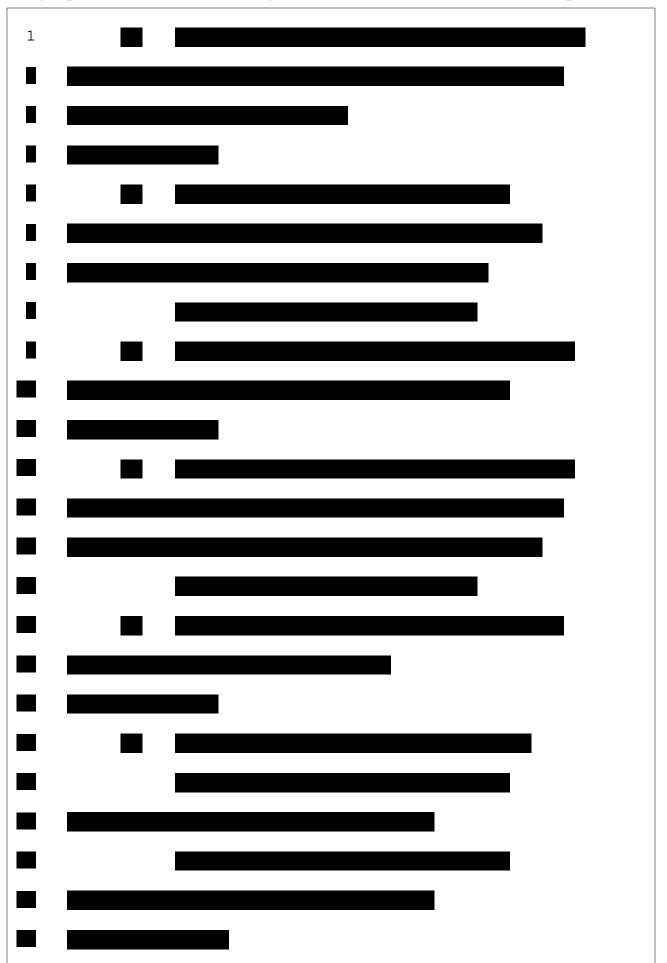








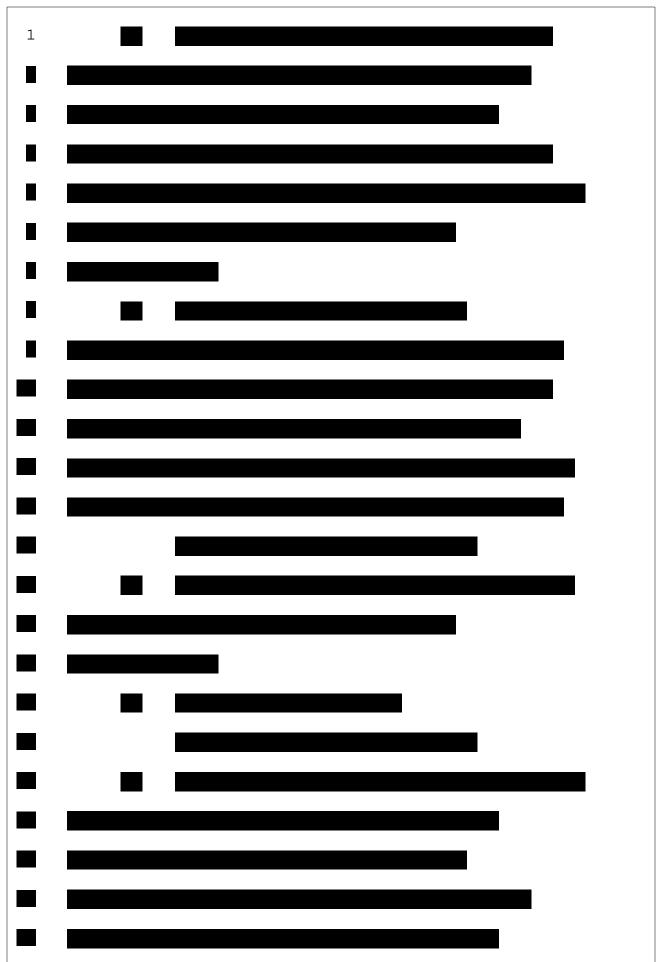


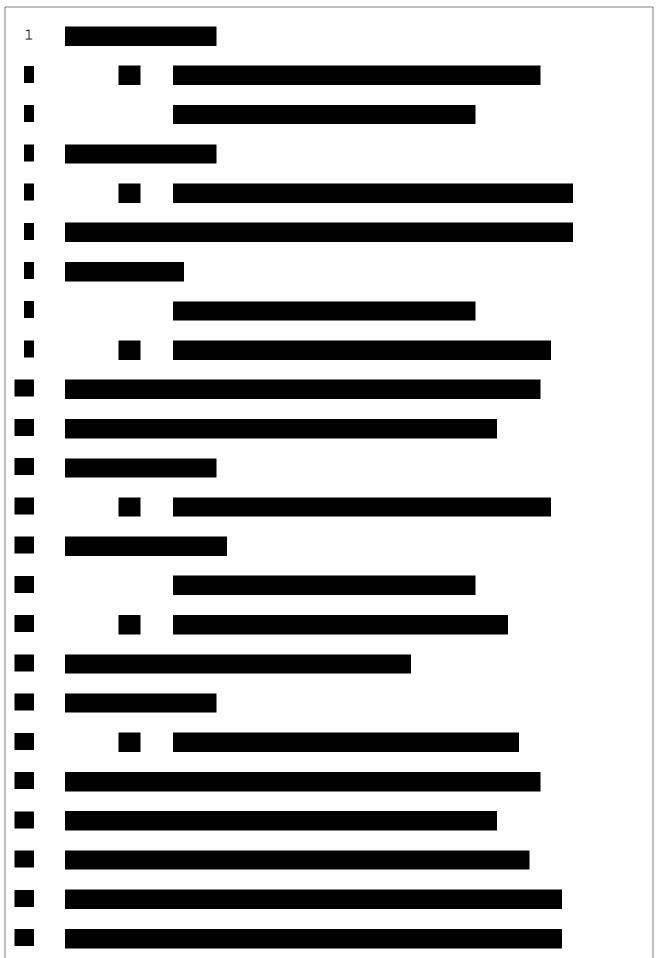


1 9 Okay. It says on Page 8 of the O. 10 PowerPoint under "DEA Reporting Requirements" at 11 the very top, it says "CVS is obligated to 12 report orders determined to be Suspicious that 13 were placed to our Distribution Centers, " and 14 "placed to our distribution centers" is 15 underlined and in bold, correct? 16 I see that it is underlined, and it 17 appears that at least part of it is in bold. Okay. And then if you look down to 18 0. 19 the third bolded item, it reads that "Orders 20 that are placed to an Outside Vendor that we 21 identify as an order deviating from the normal 22 size, frequency, and/or buying pattern and 23 deemed to not be for legitimate purposes or are at the risk of being diverted are not required 24

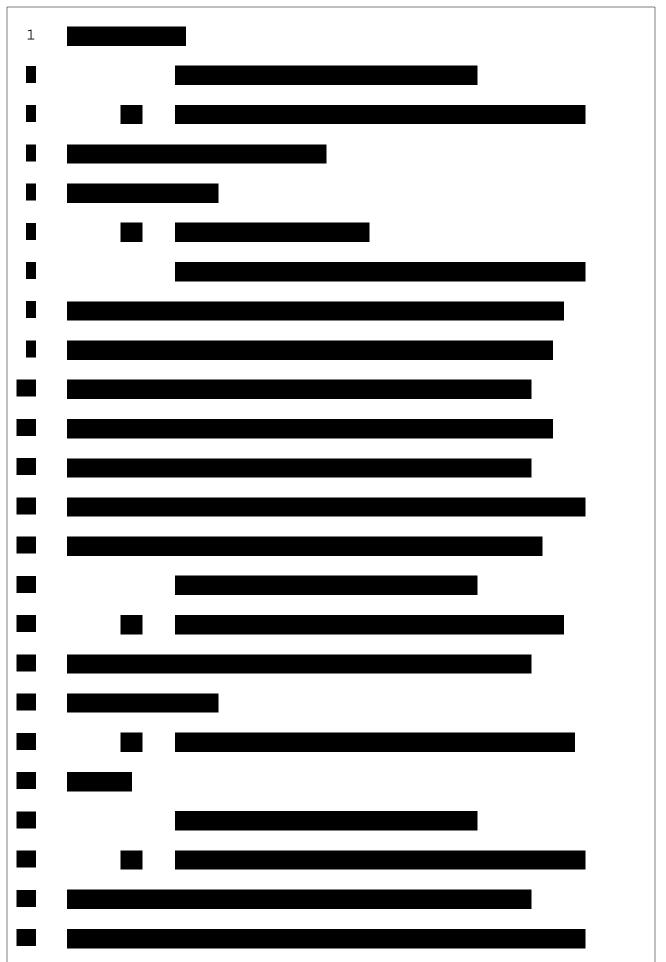
to be reported to the DEA." 1 2 Did I read that correctly? MS. MILLER: Object to form. 3 That's what it says, but I don't know 4 Α. 5 how we would identify an order placed to an outside vendor deviating from normal size, 6 7 frequency, but I don't believe that part of our 8 process monitoring specific orders to the OV when they are placed. 9 10

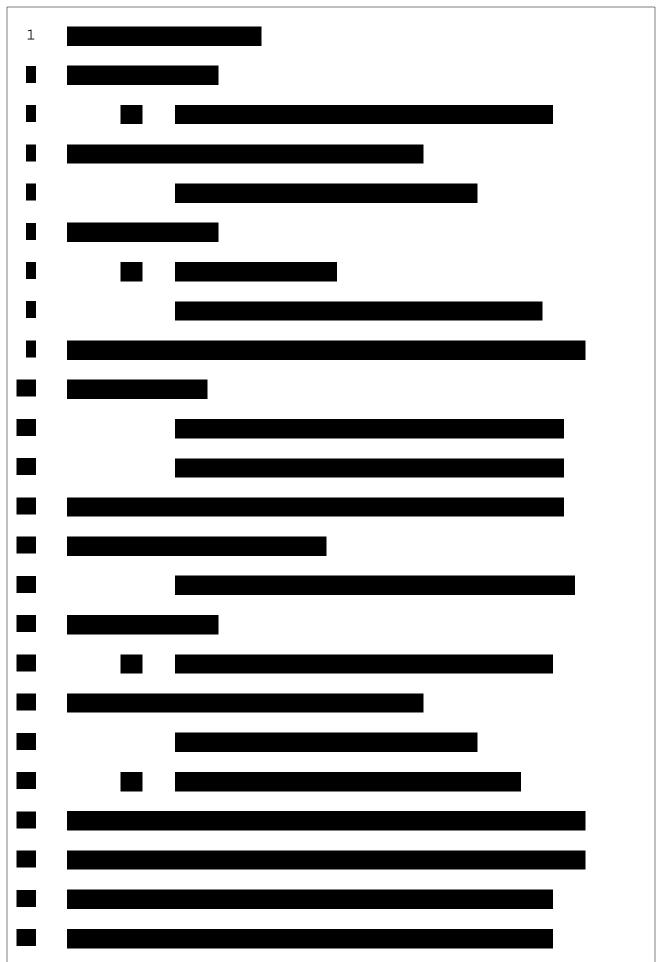
Case: 1:17-md-02804-DAP\_Dog#: 2177-2 Filed: 08/12/19 259 of 393 PageID #: 318288. Highly Confidential ty Review

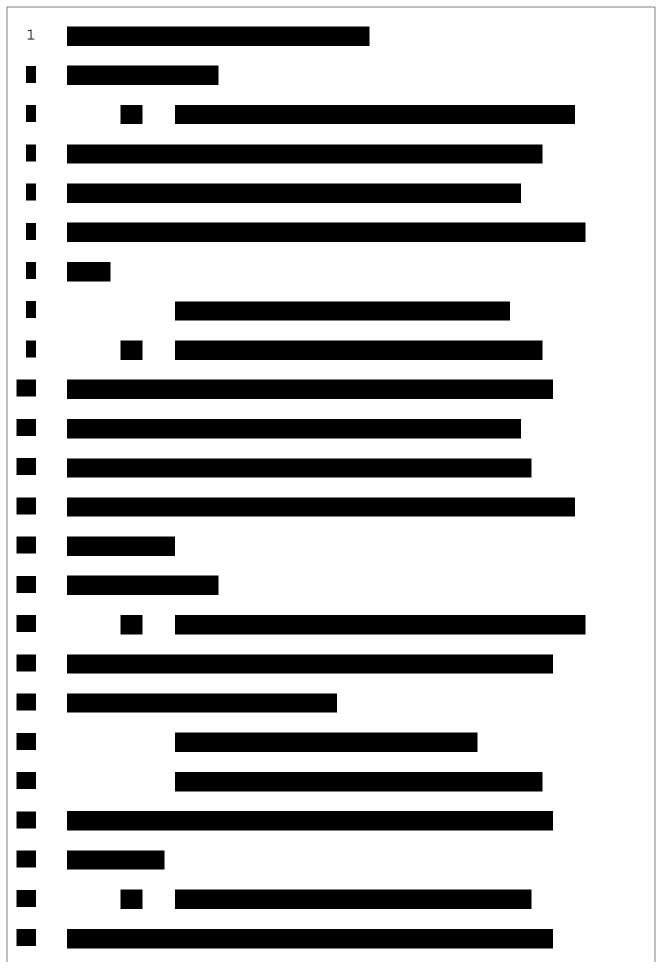


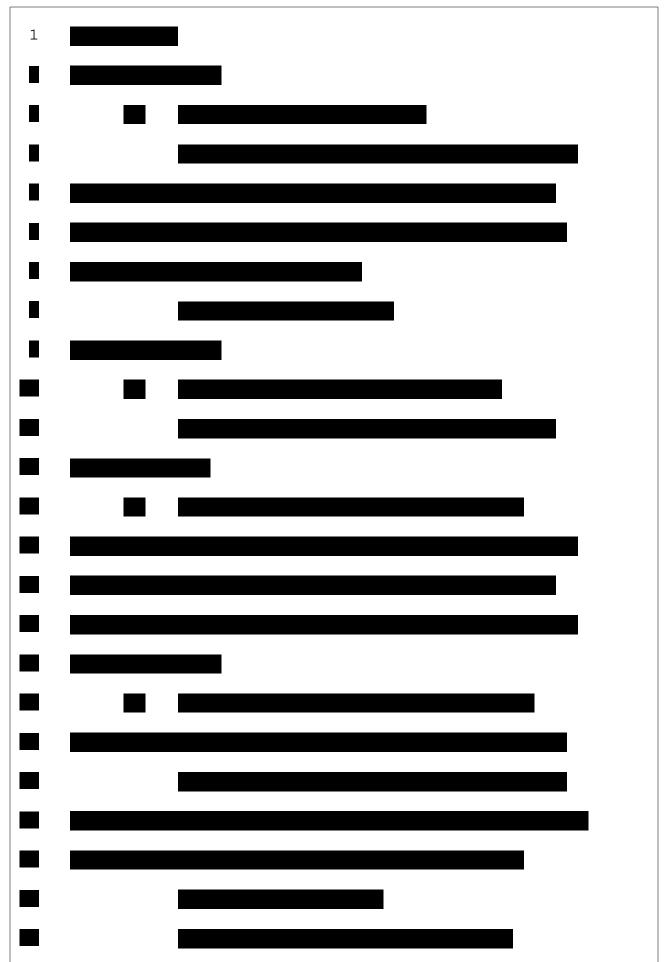


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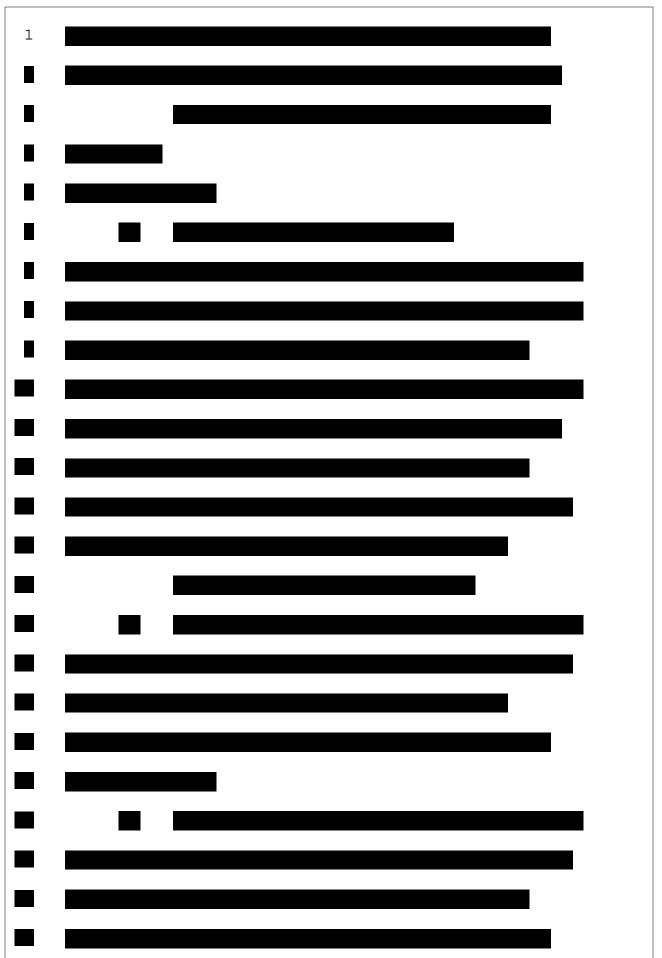


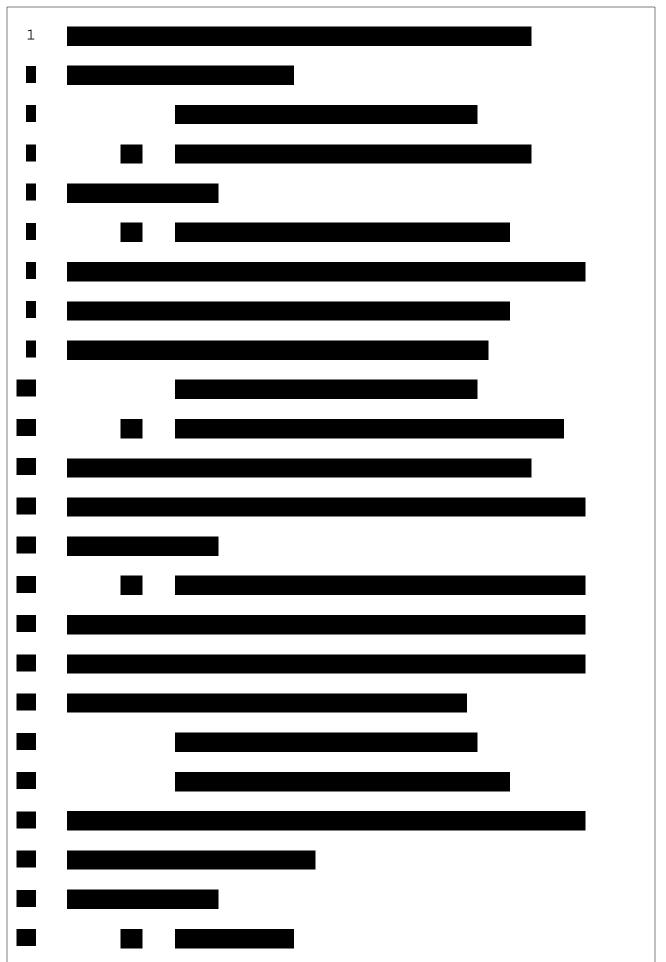


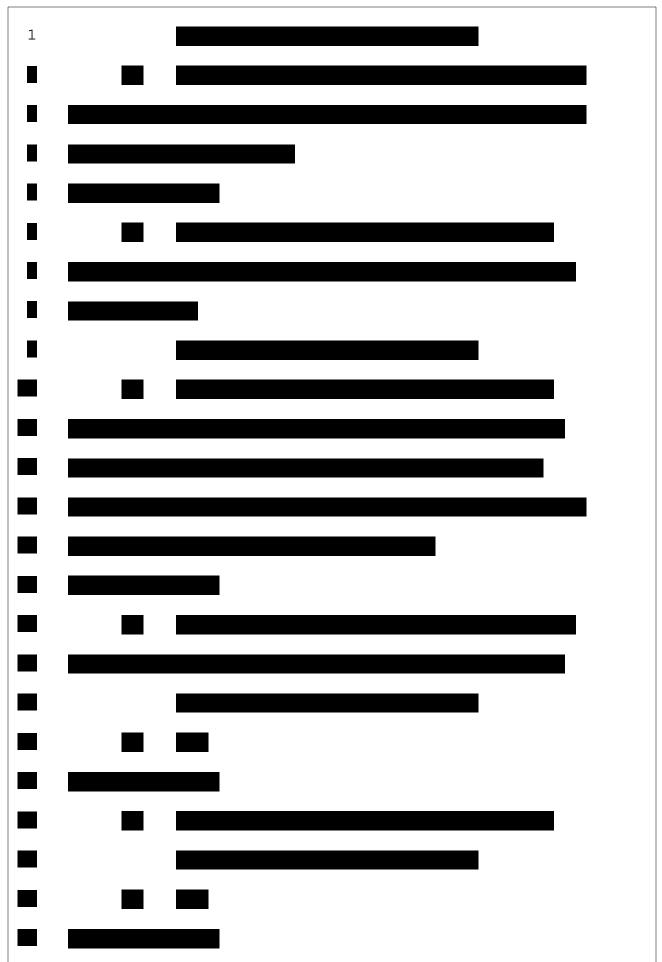




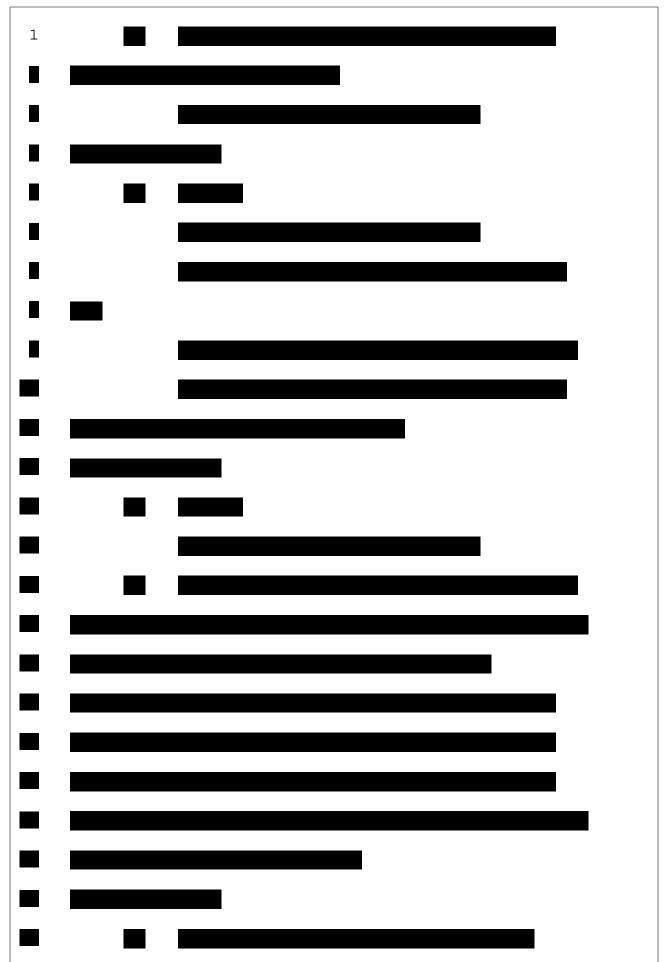
Case: 1:17-md-02804-DAP\_Dog#: 2177-2 Filed: 08/12/19 265 of 393 PageID #: 318294 Fighly Confidential ty Review



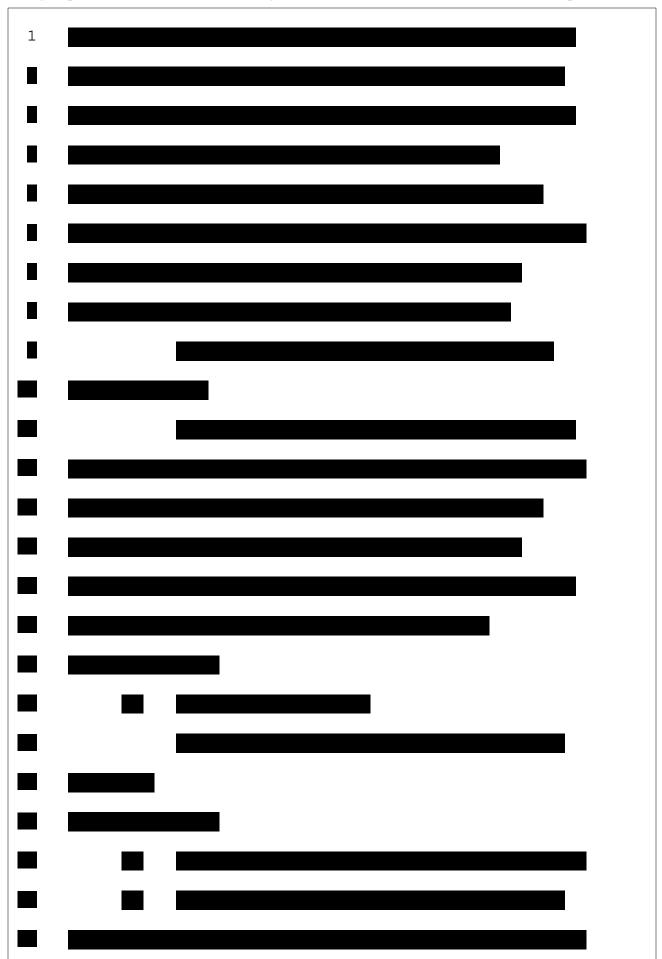


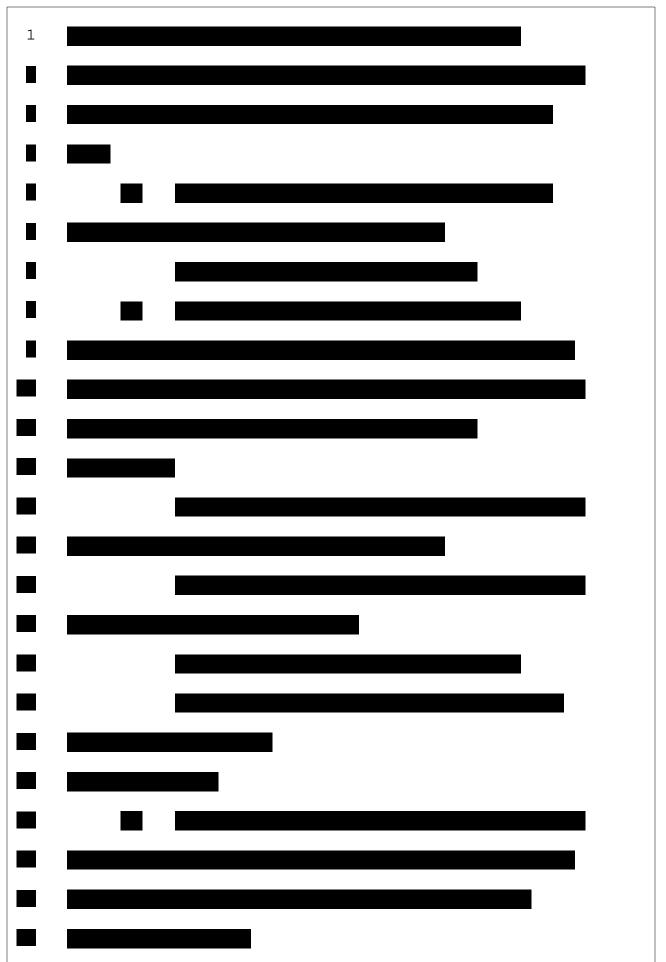


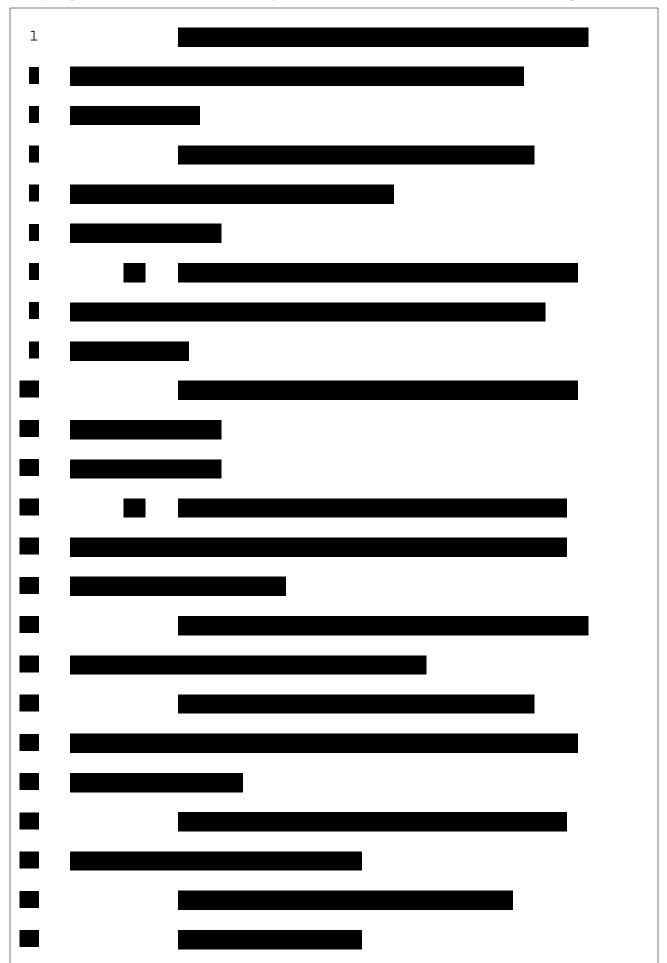
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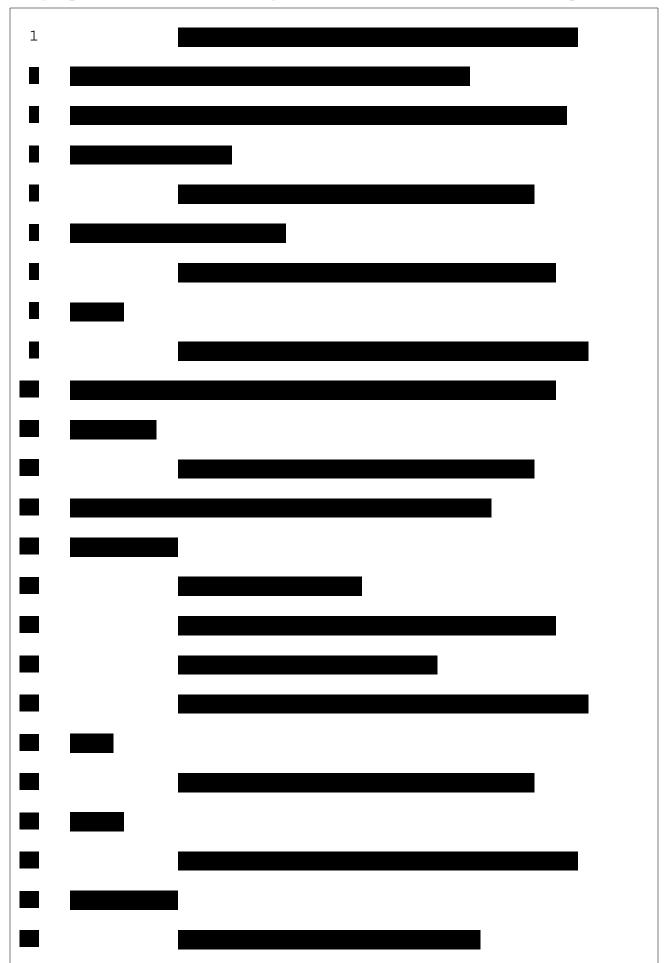


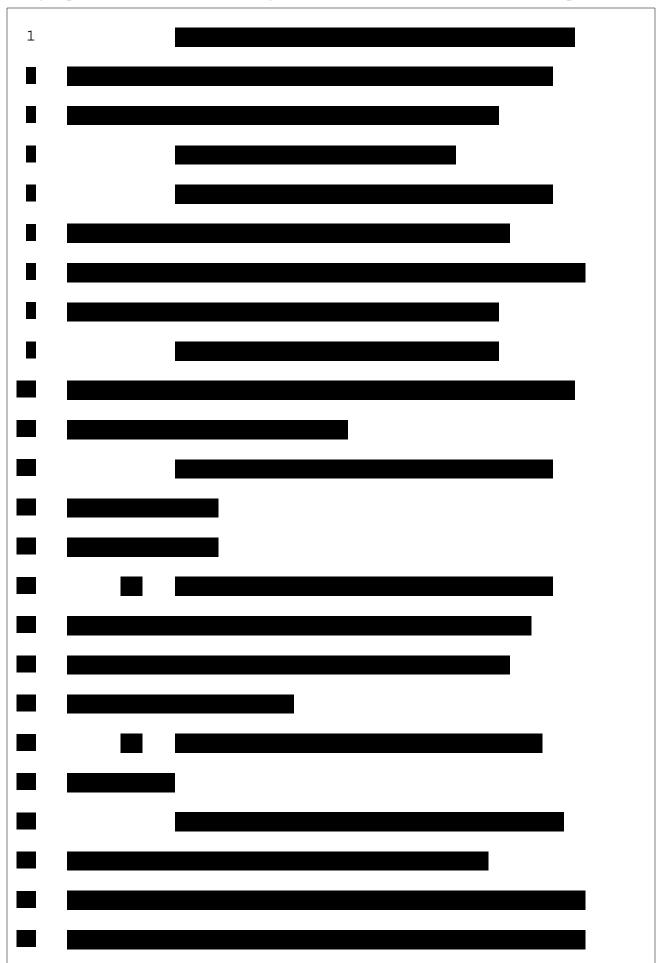
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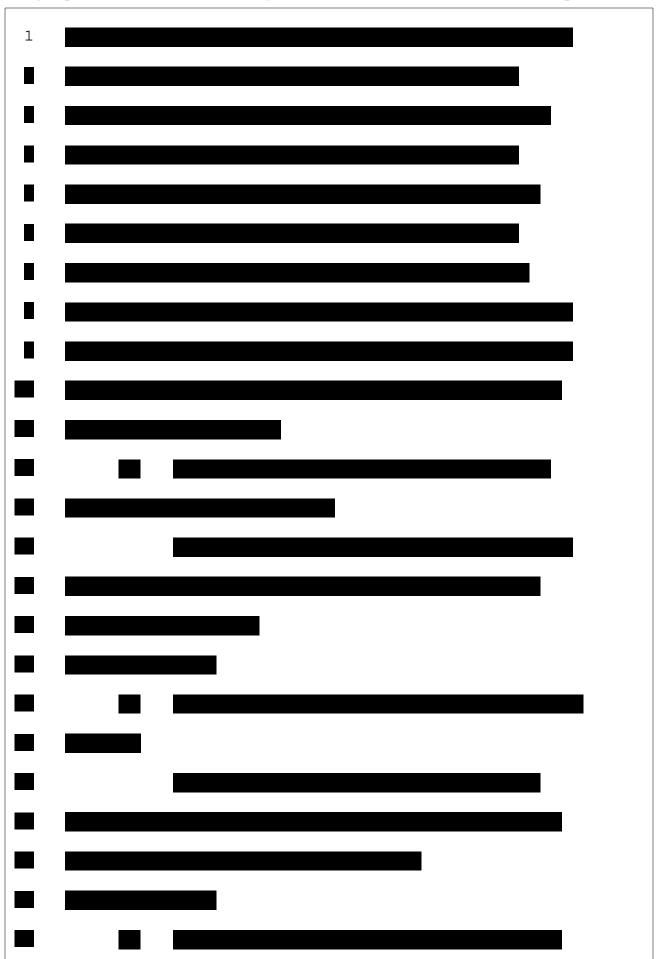




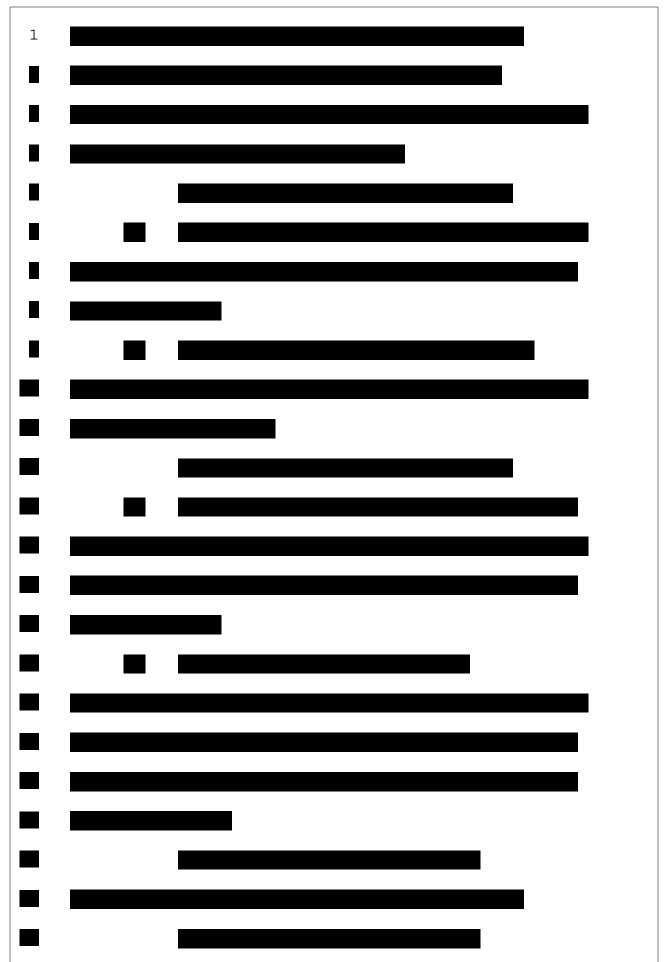




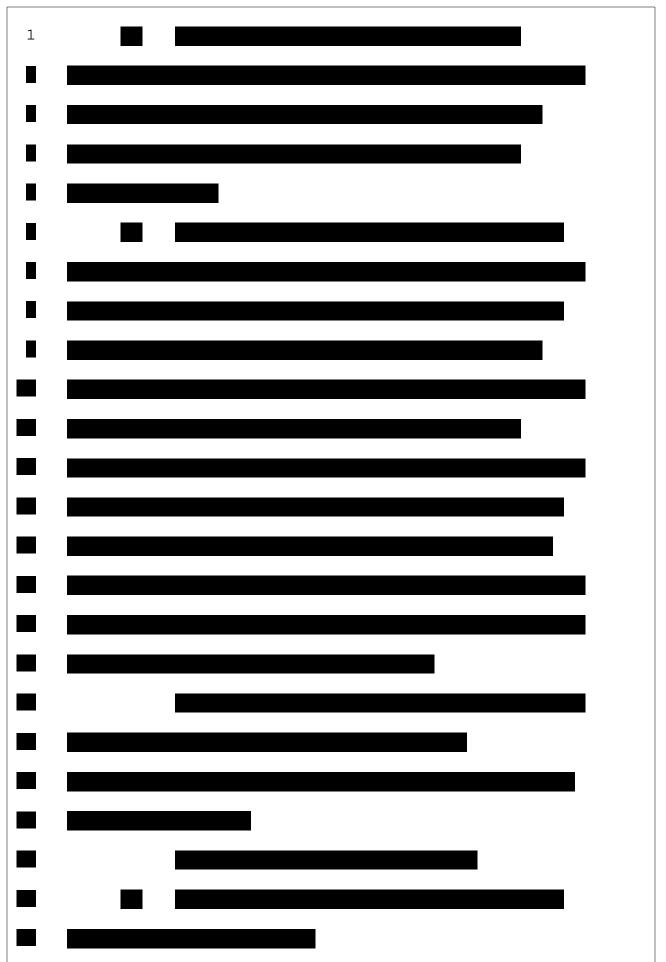
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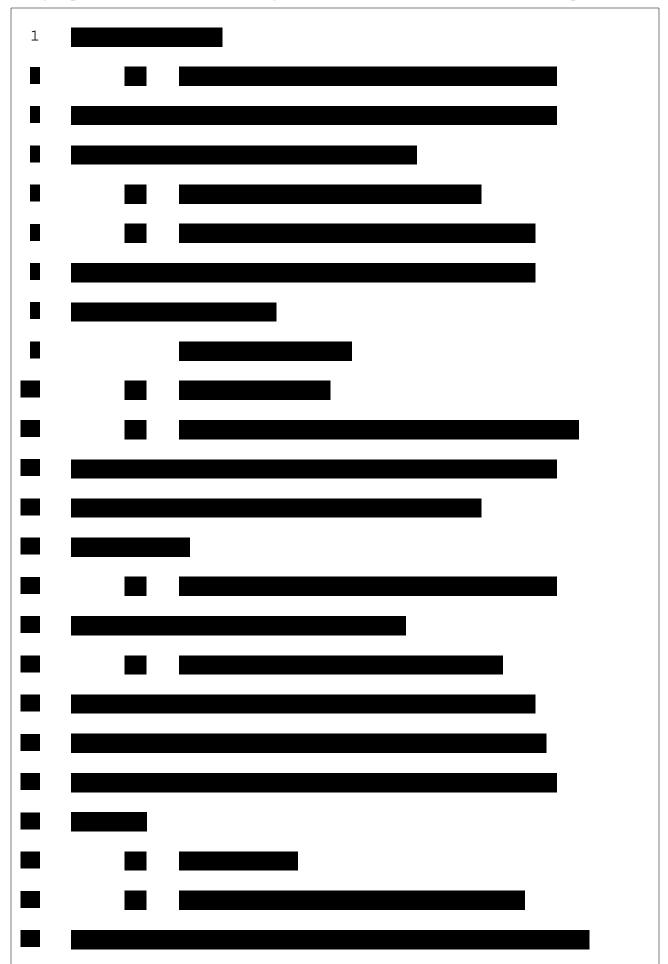


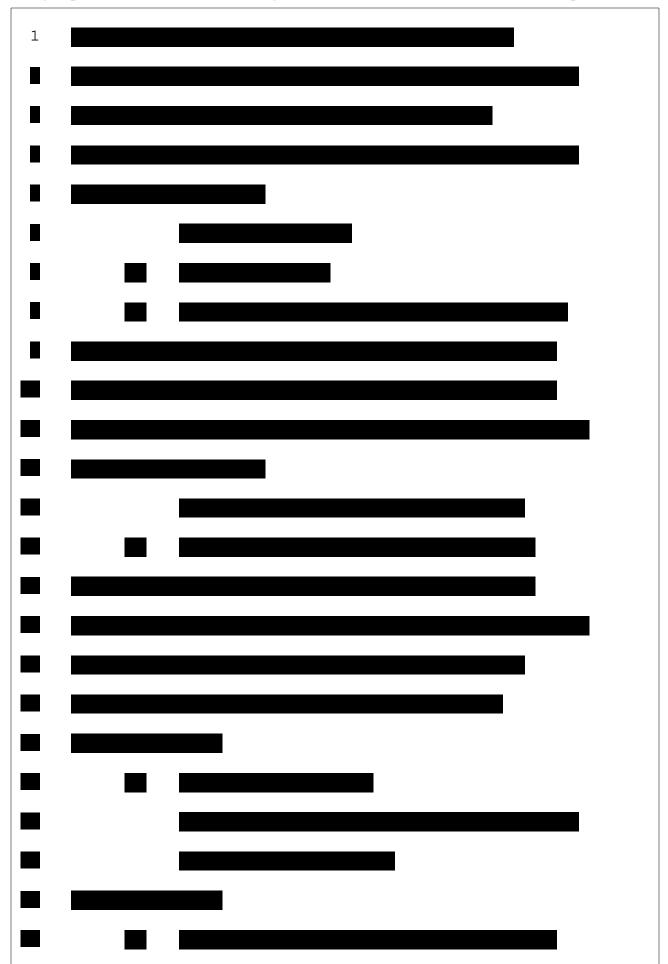
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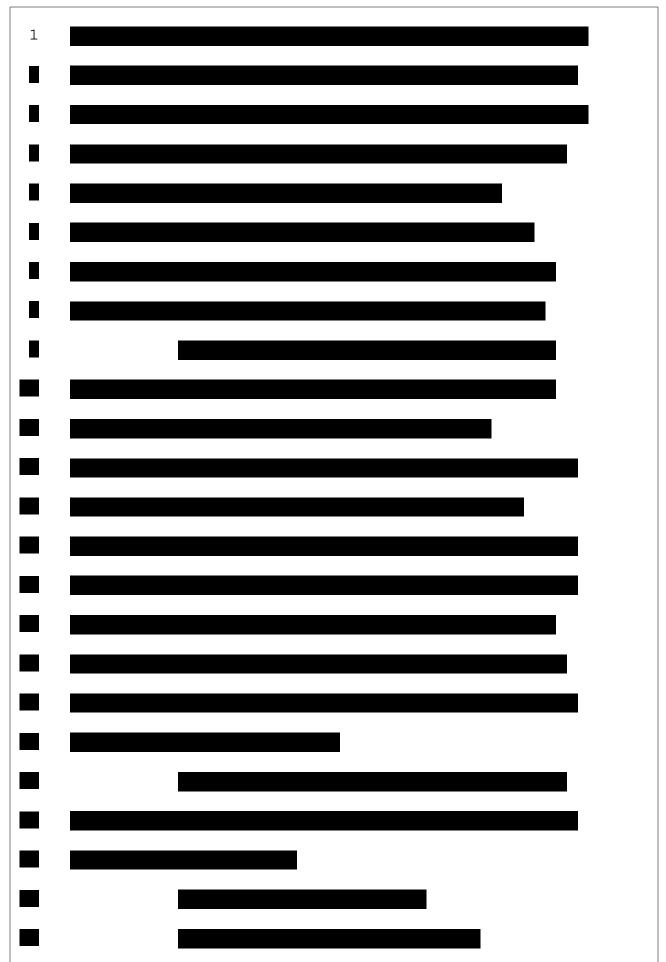
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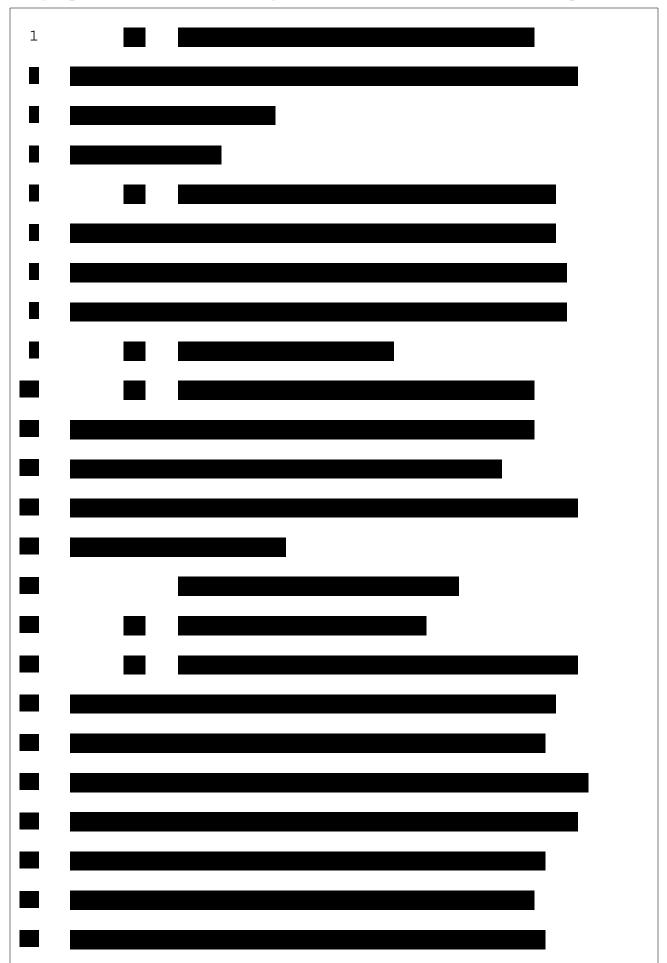


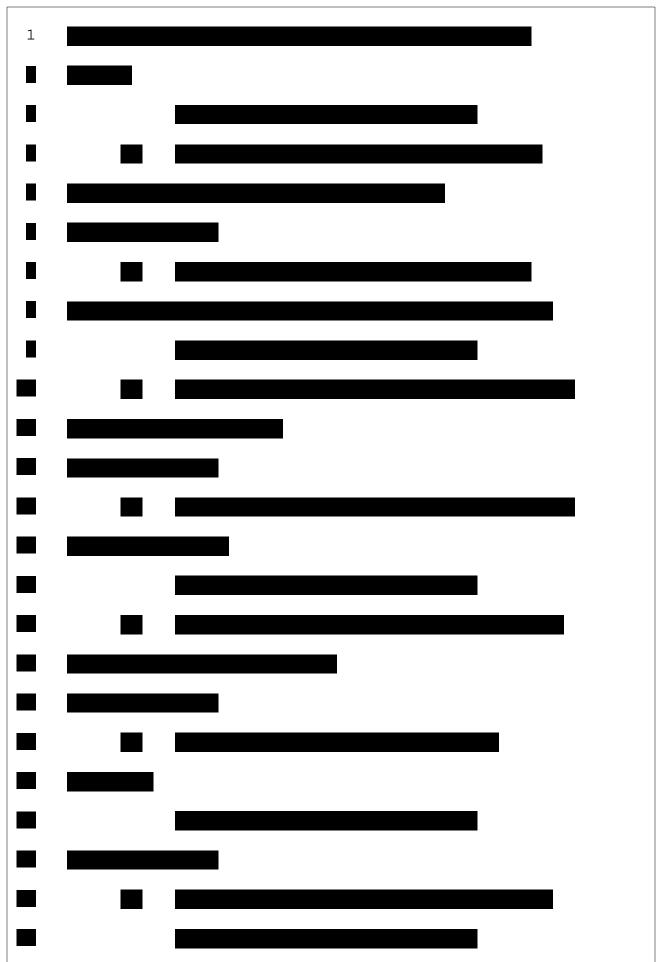


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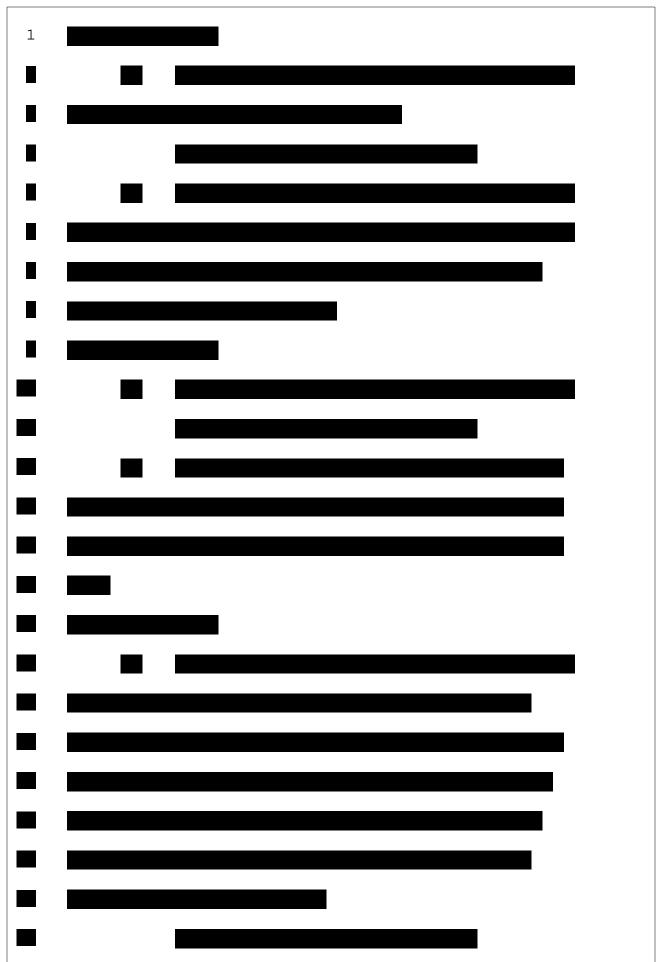


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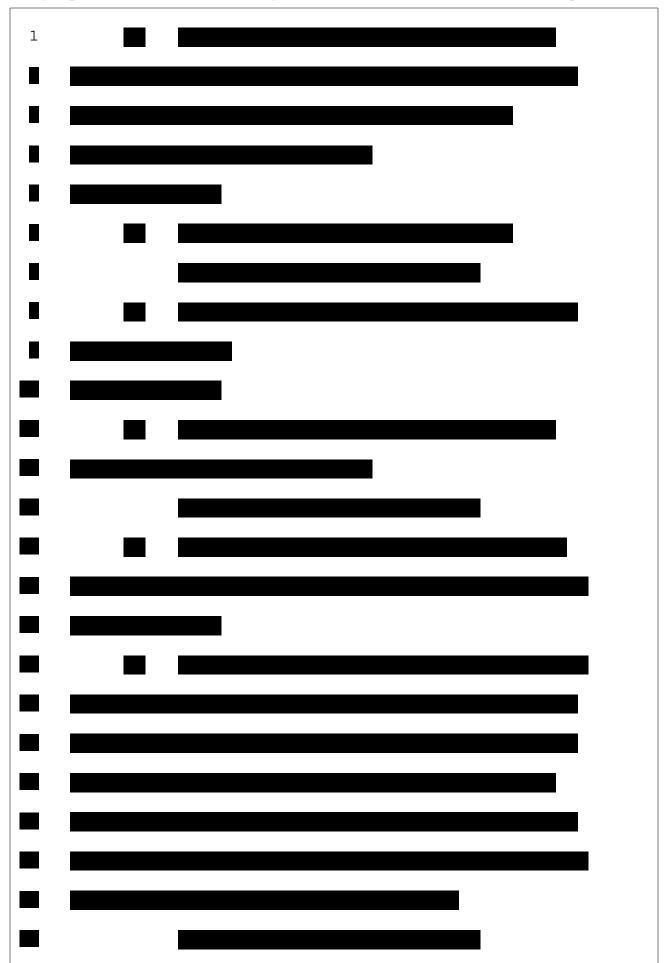


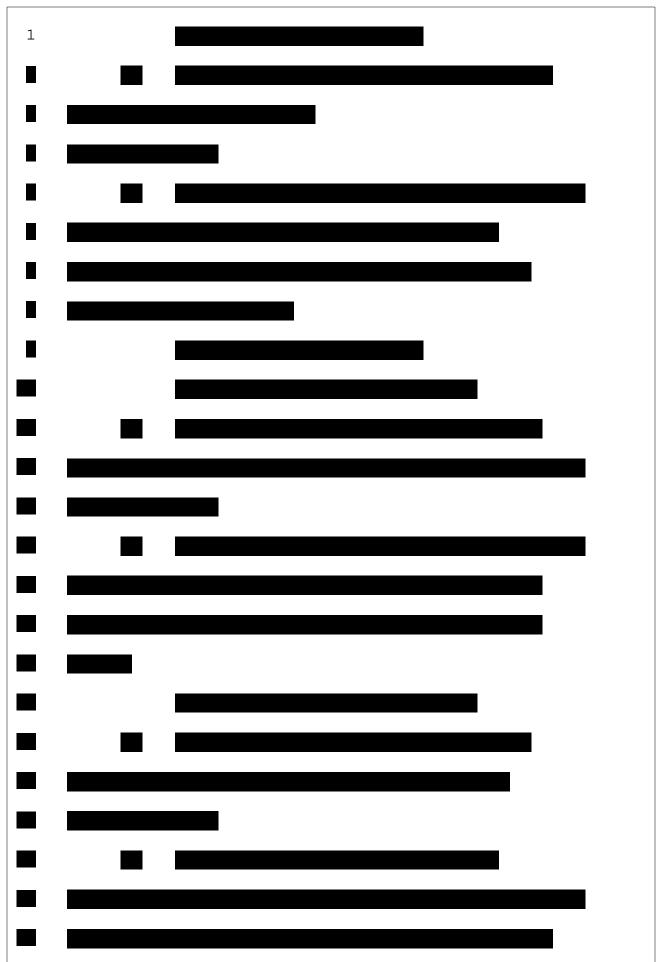


Case: 1:17-md-02804-DAP\_Dog#: 2177-2 Filed: 08/12/19 282 of 393 PageID #: 318311. Highly Confidential - Subject to Further Confidential ty Review

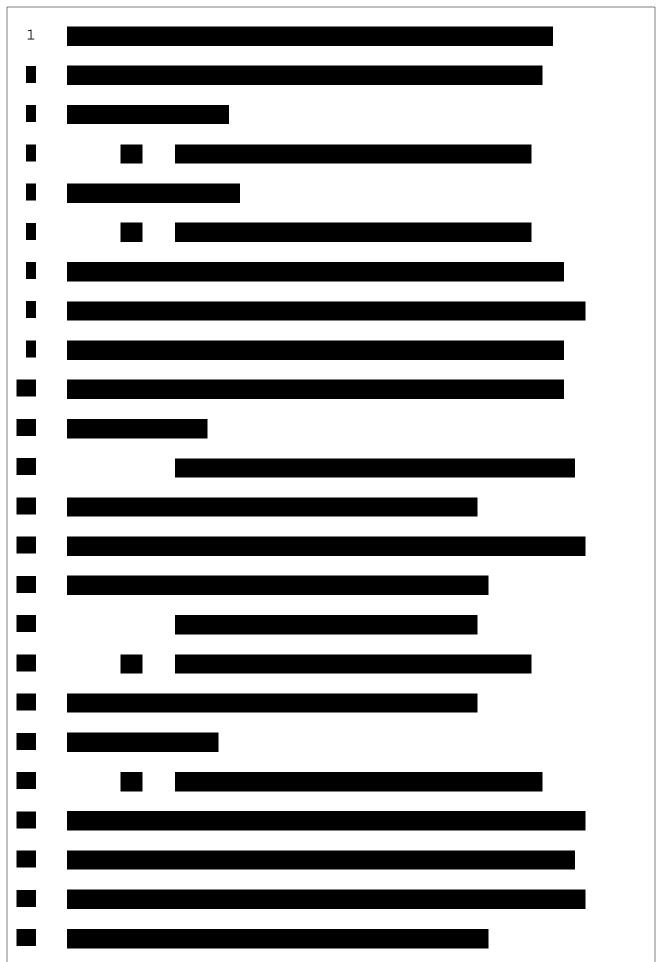


Case: 1:17-md-02804-DAP\_Dog#: 2177-2 Filed: 08/12/19 283 of 393 PageID #: 318312 Filed: 08/12/19 283 of 393 PageID #: 318312 Review

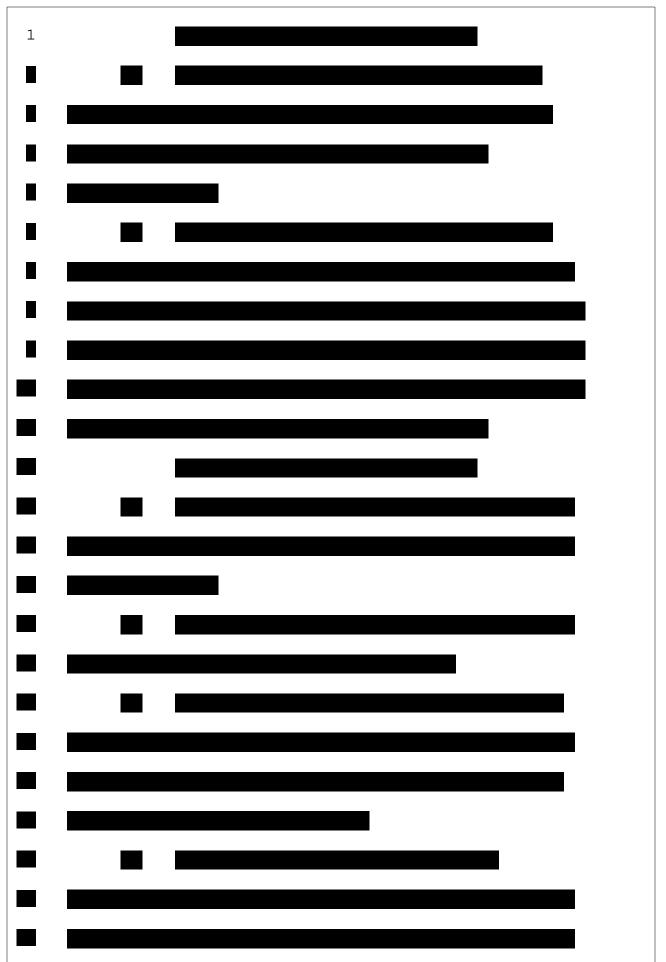




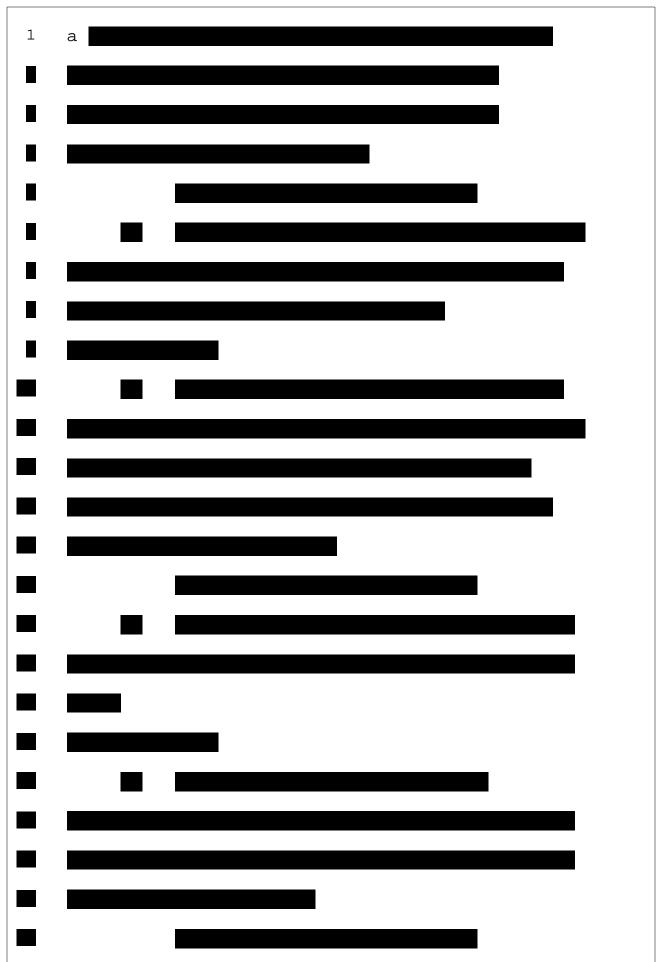
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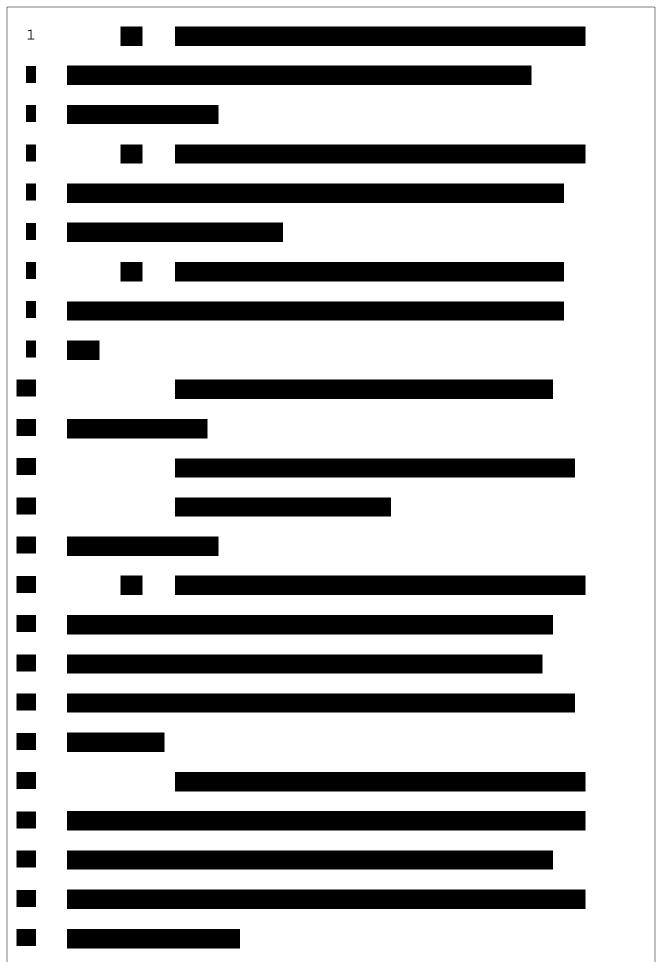
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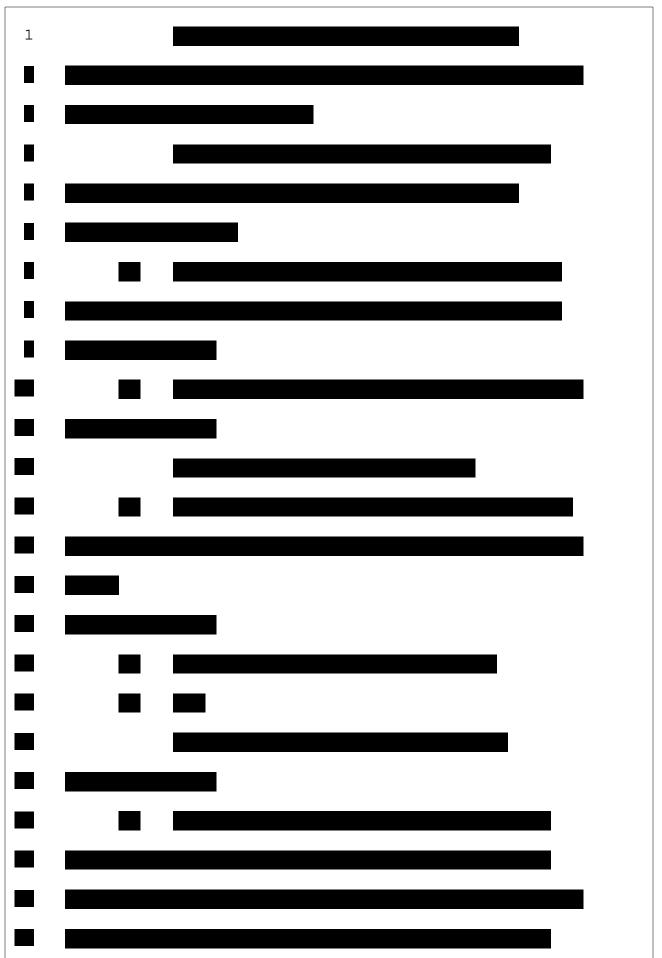
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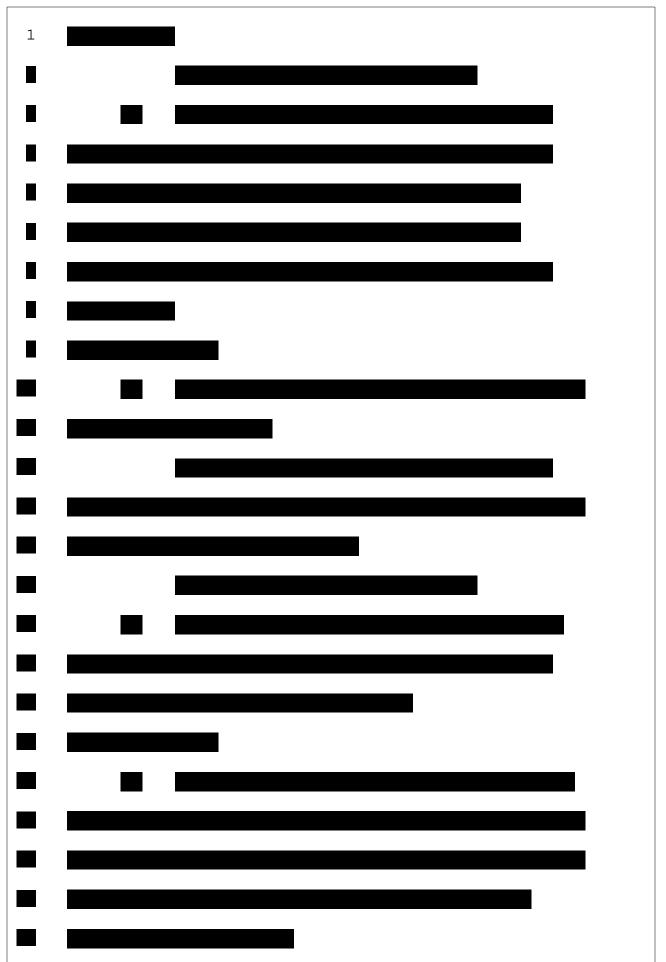
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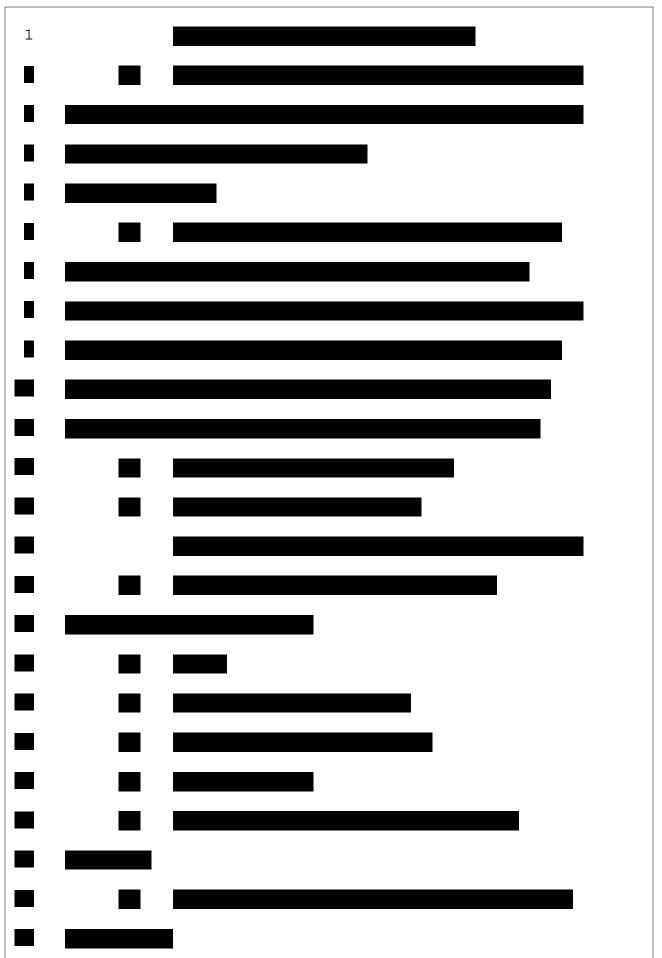


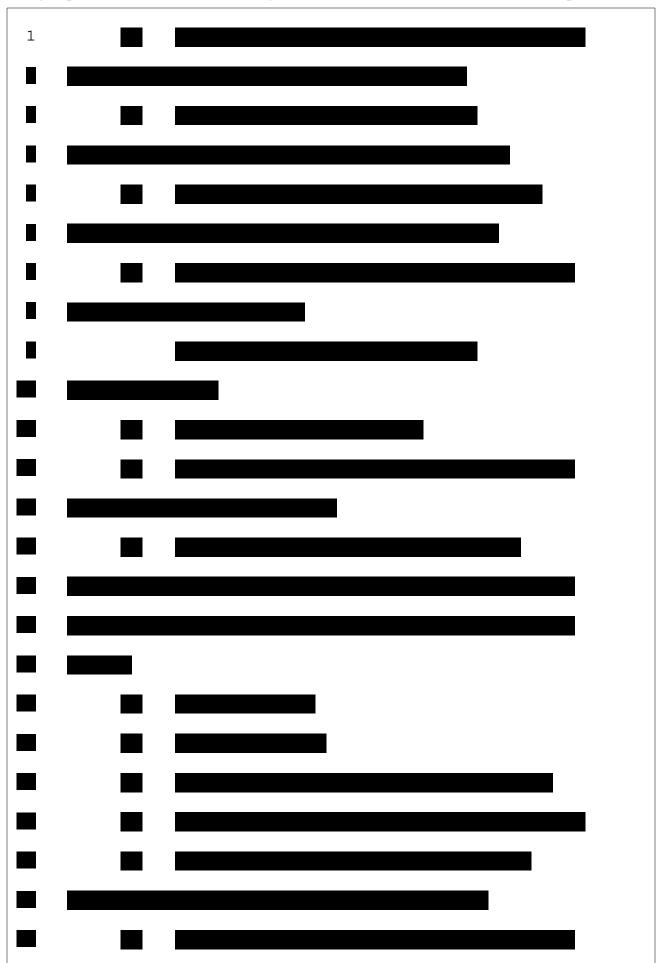
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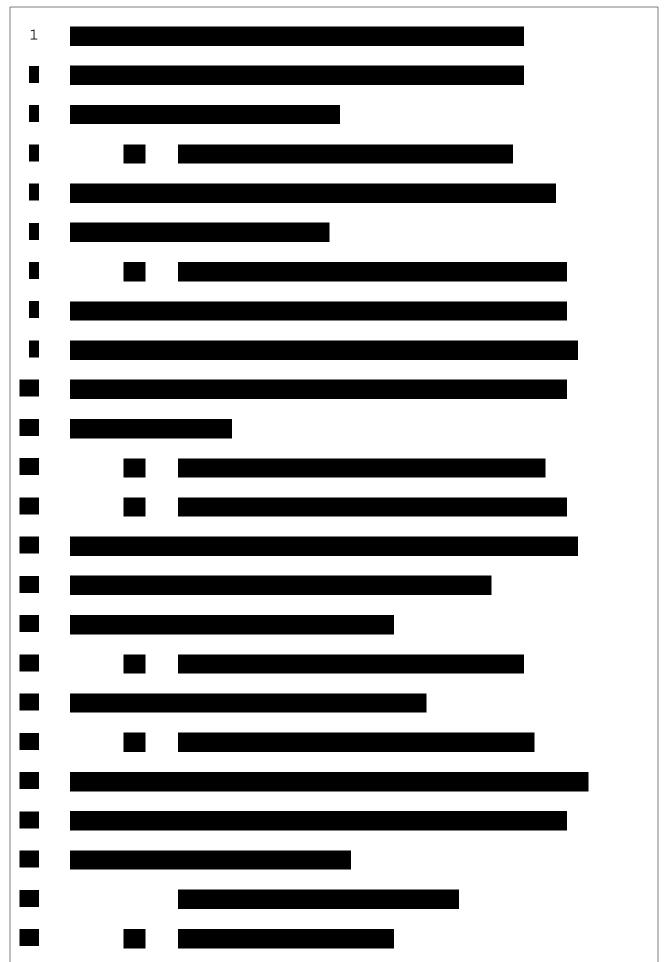


Case: 1:17-md-02804-DAP\_Doc#: 2177-2 Filed: 08/12/19 290 of 393 PageID #: 318319 Fighly Confidential ty Review

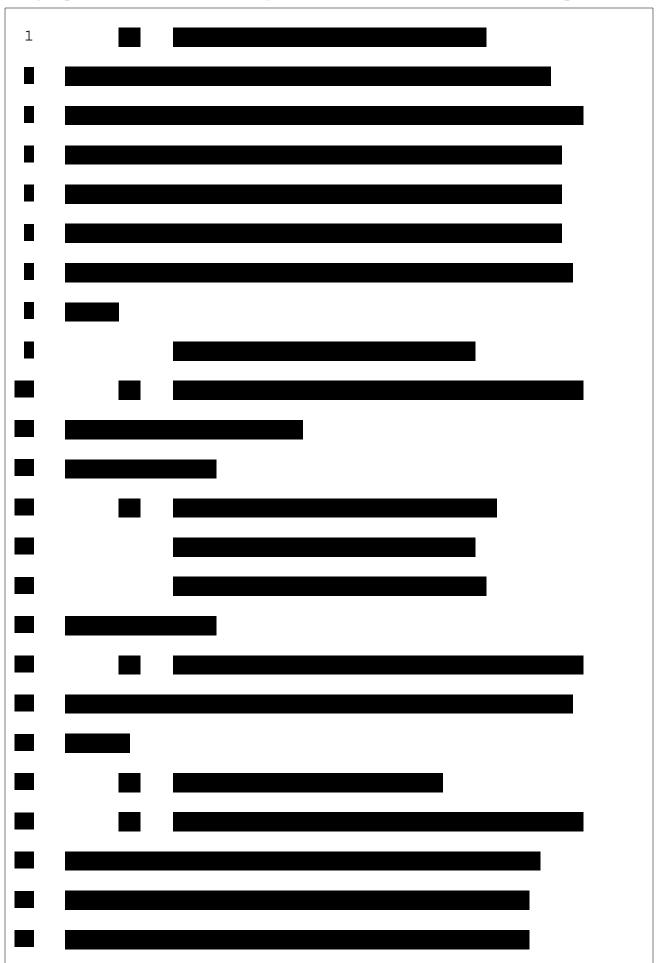


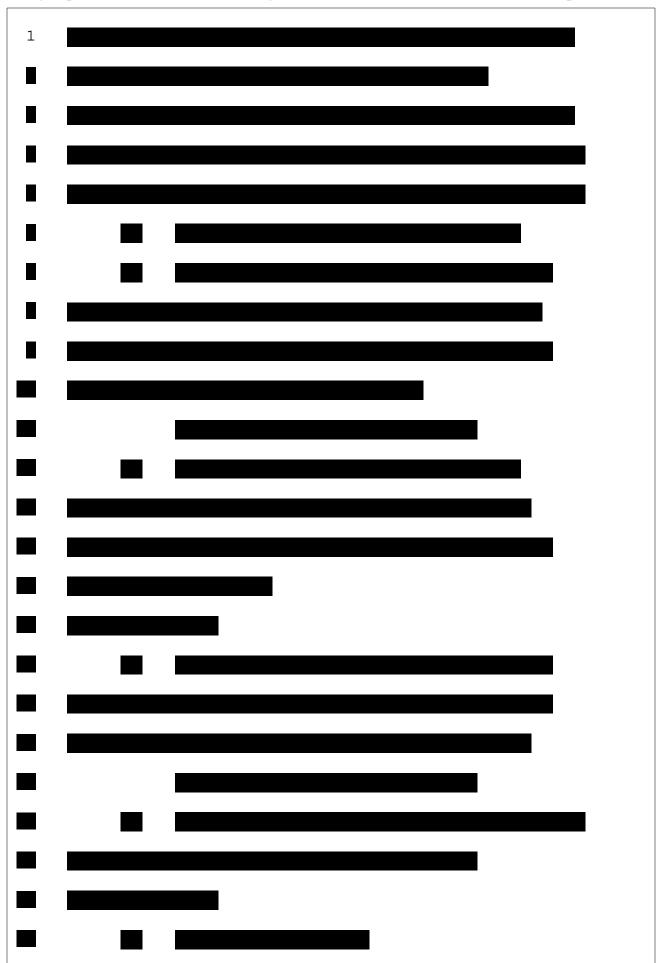


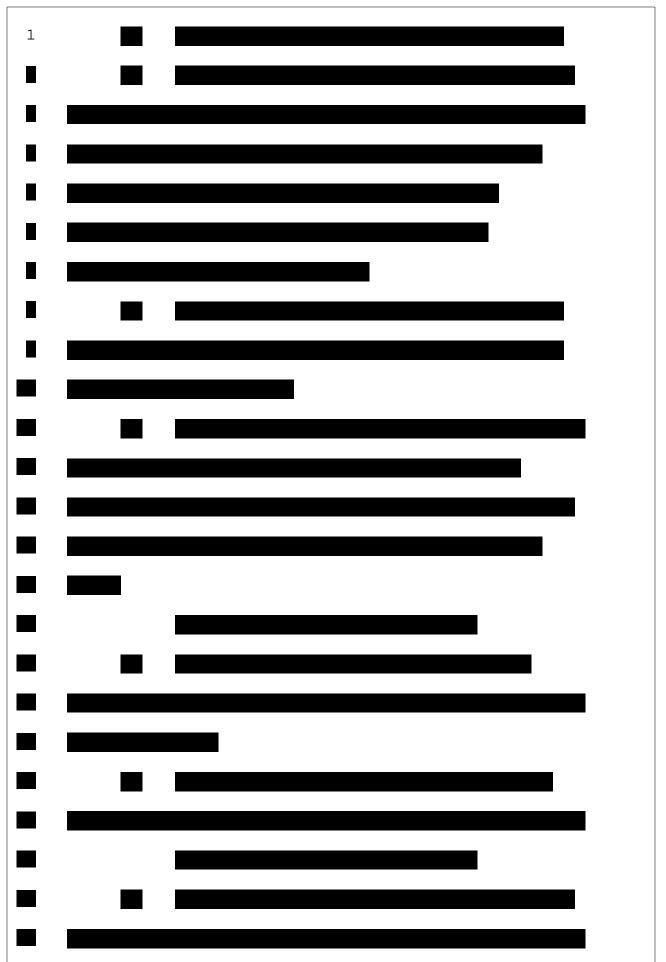




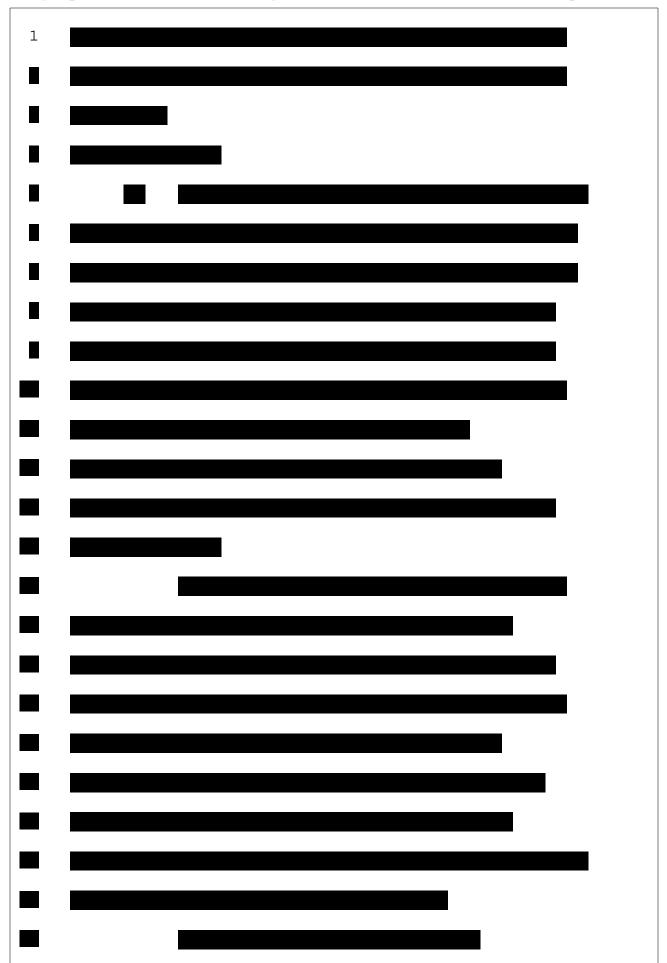
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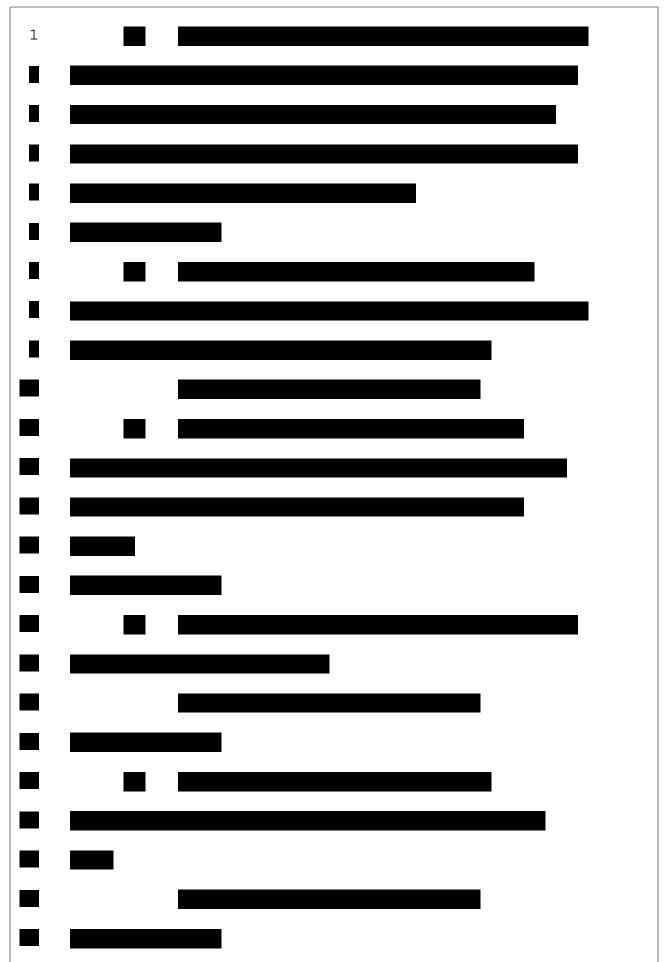




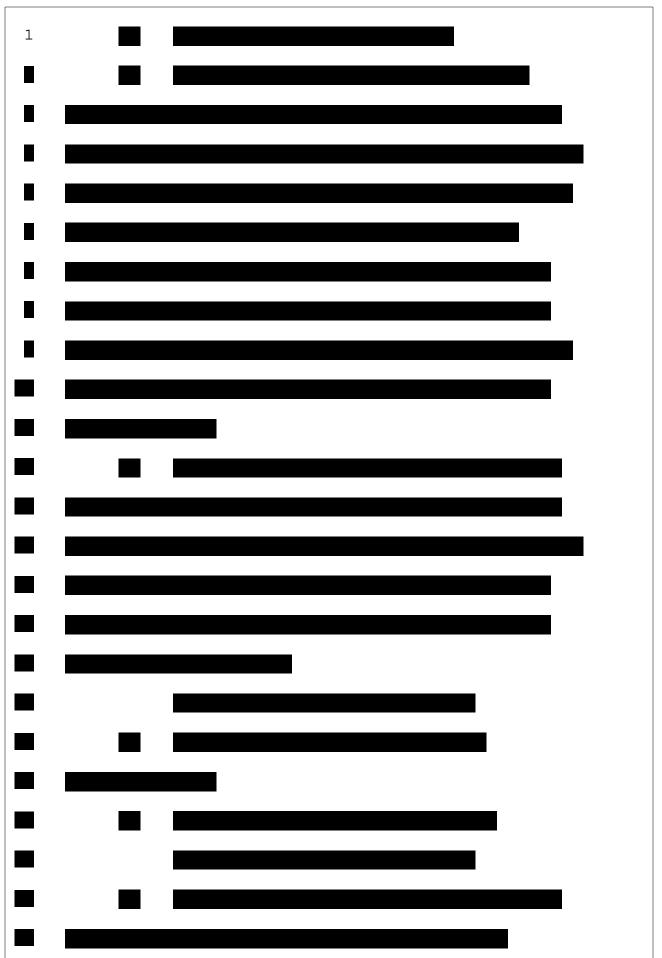


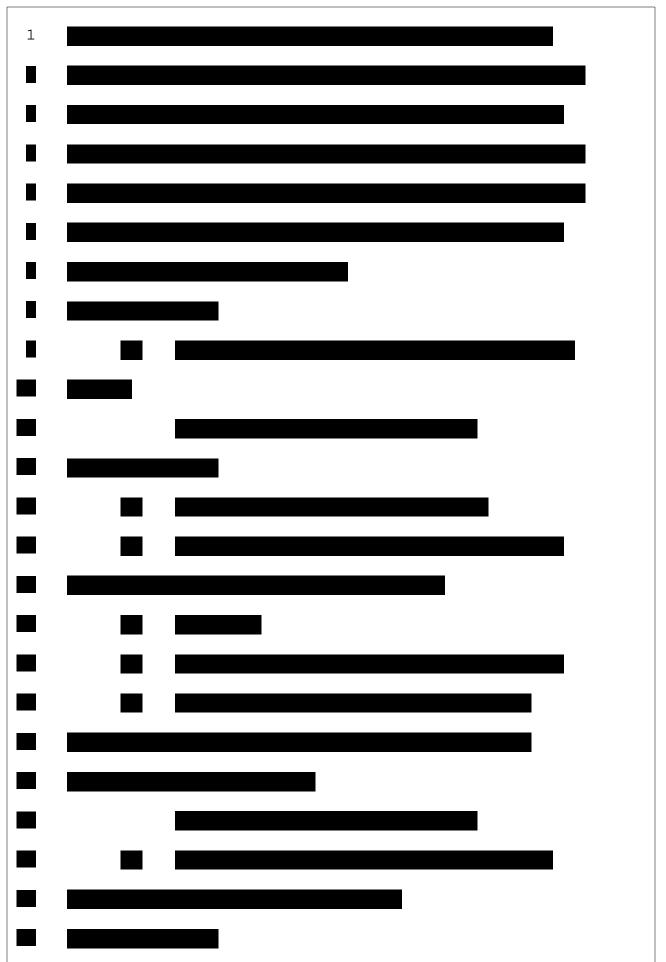
Case: 1:17-md-02804-DAP\_Dog#: 2177-2 Filed: 08/12/19 297 of 393 PageID #: 318326. Highly Confidential - Subject to Further Confidential ty Review



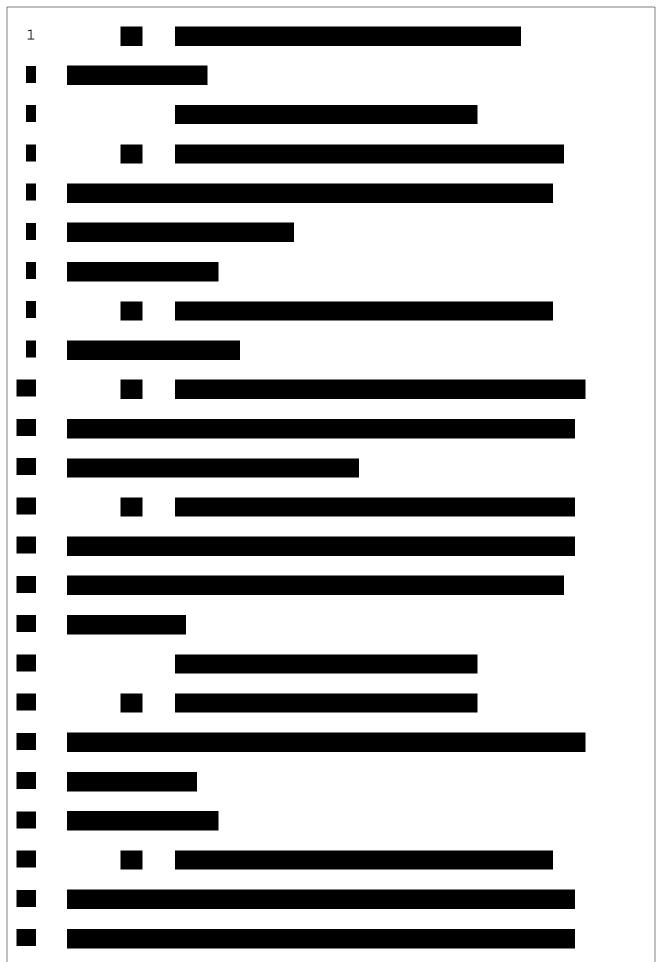


Case: 1:17-md-02804-DAP\_Dog#: 2177-2 Filed: 08/12/19 299 of 393 PageID #: 318328 Fighly Confidential ty Review

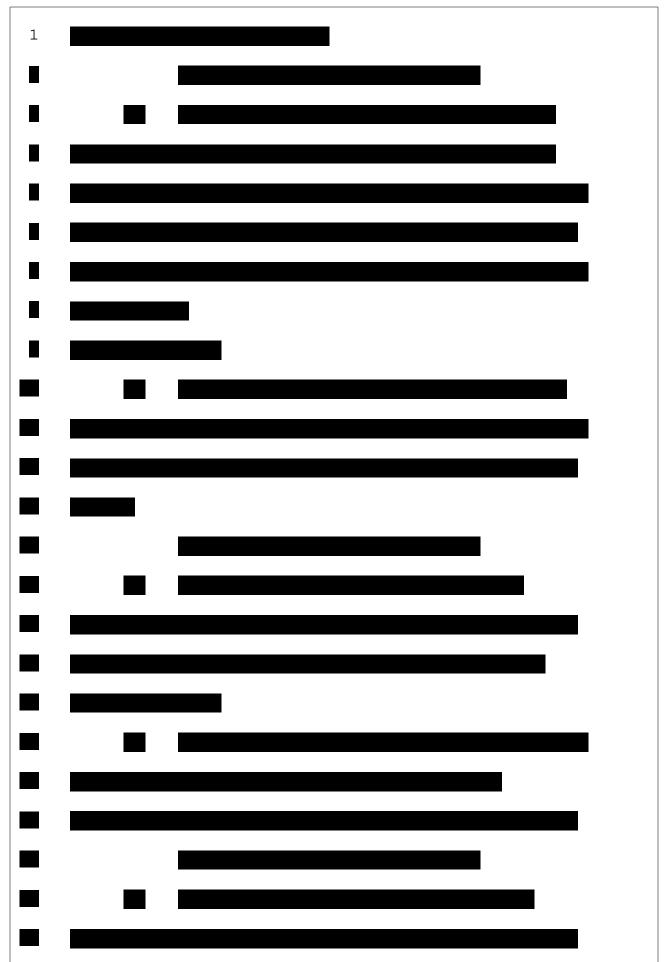


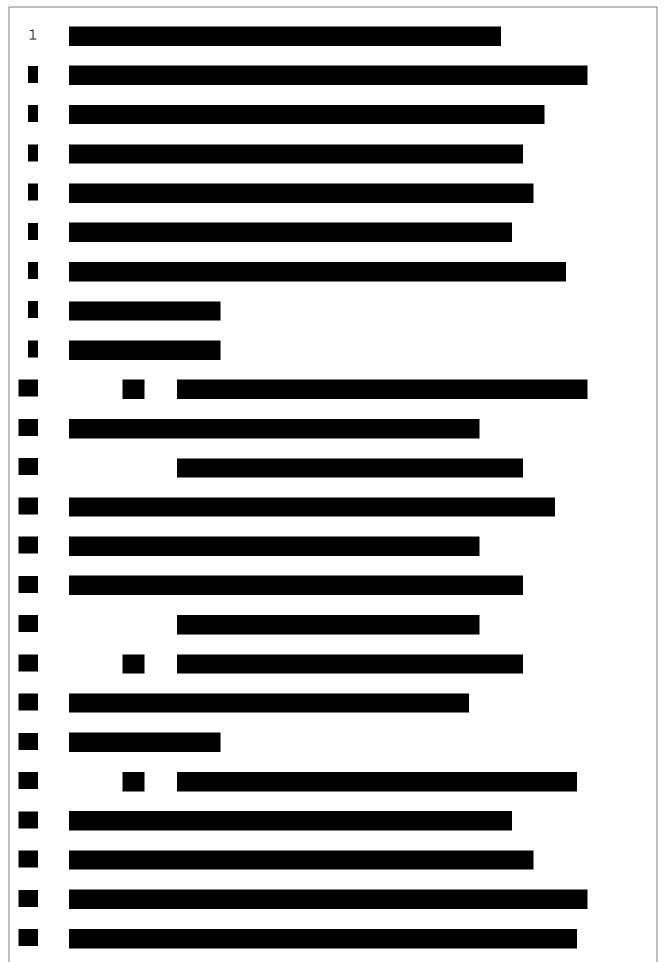


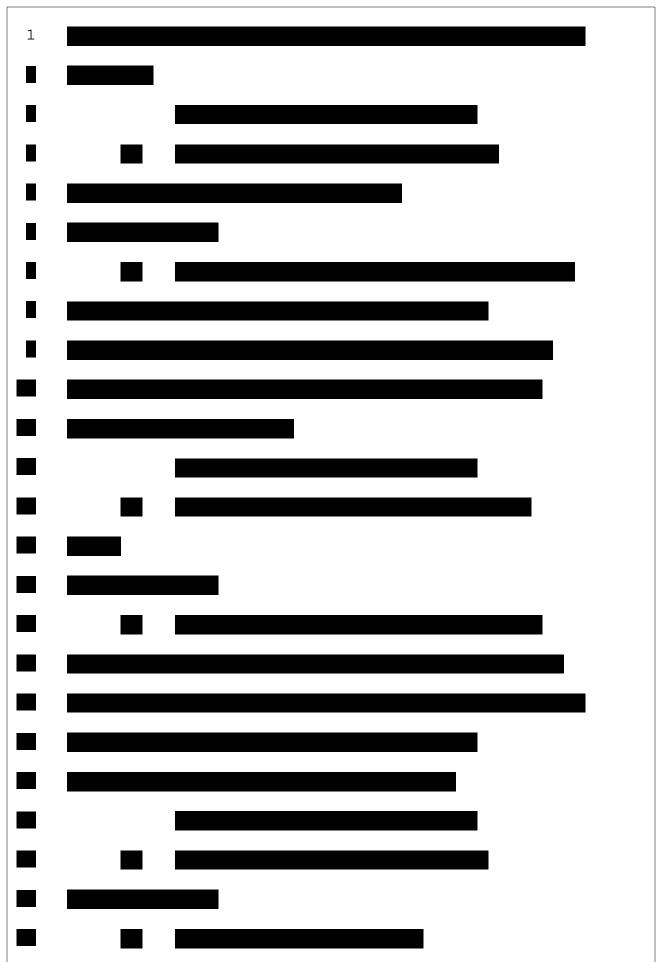
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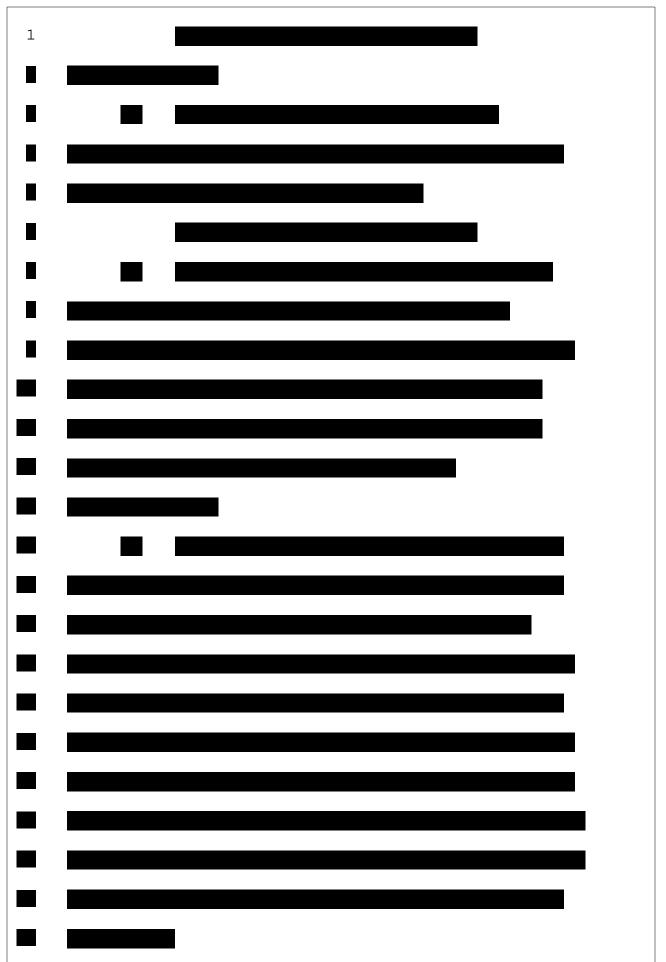
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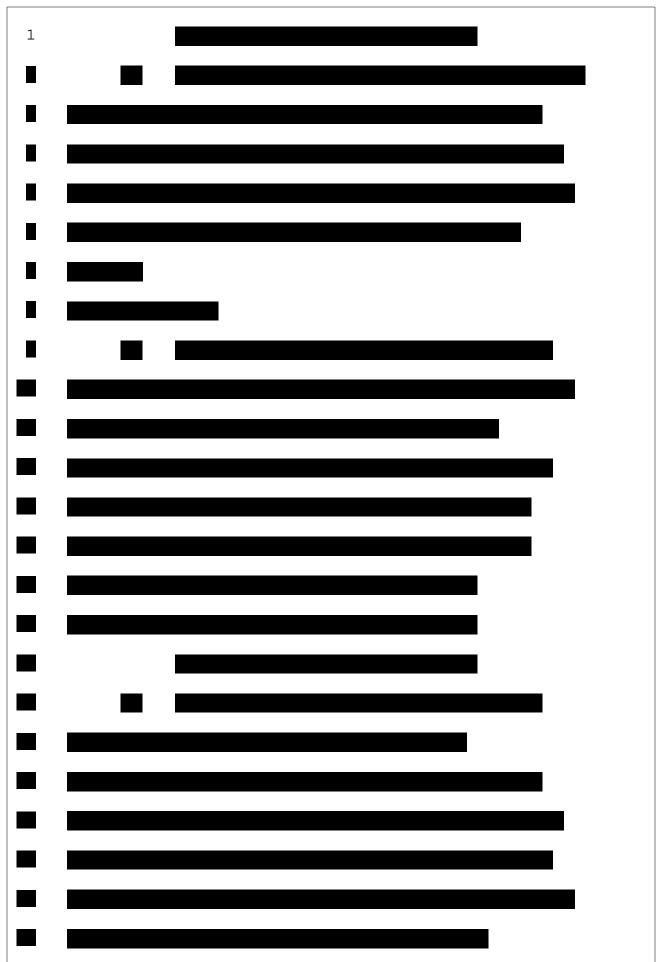


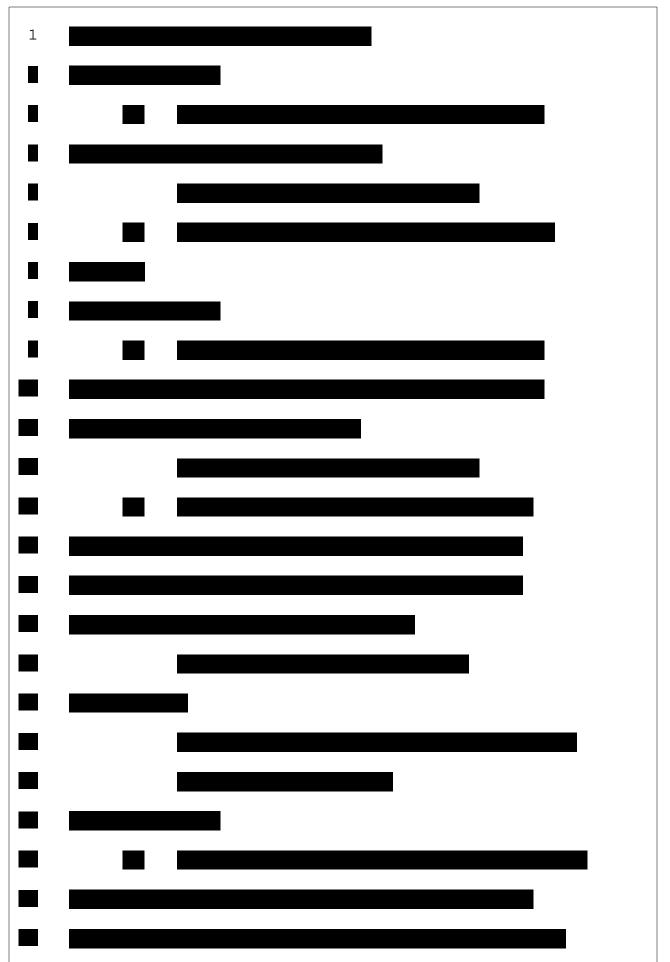


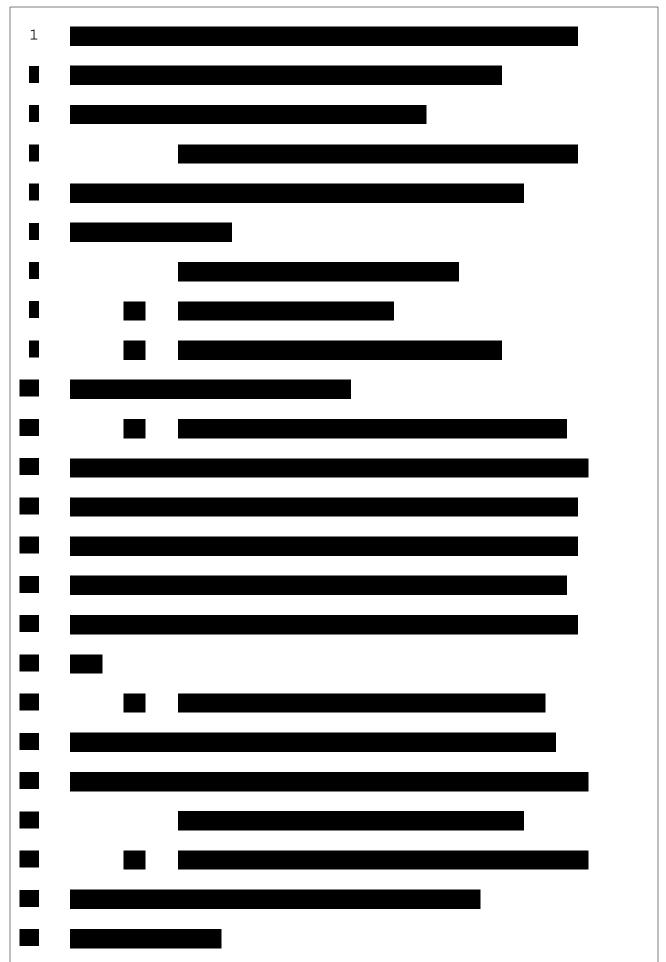


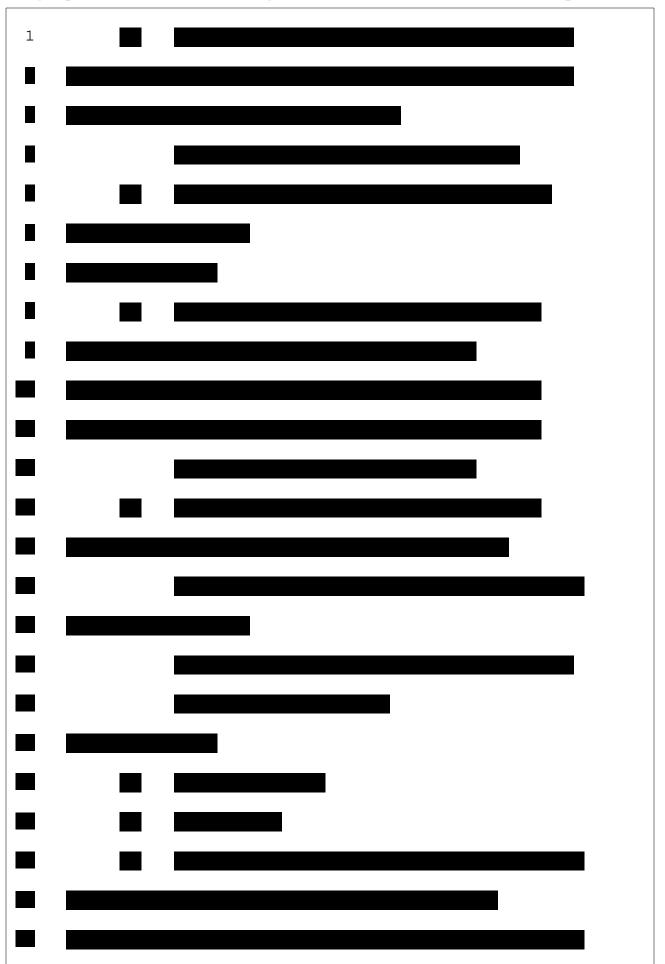
Case: 1:17-md-02804-DAP\_Dog#: 2177-2 Filed: 08/12/19 305 of 393 PageID #: 318334. Highly Confidential - Subject to Further Confidential ty Review

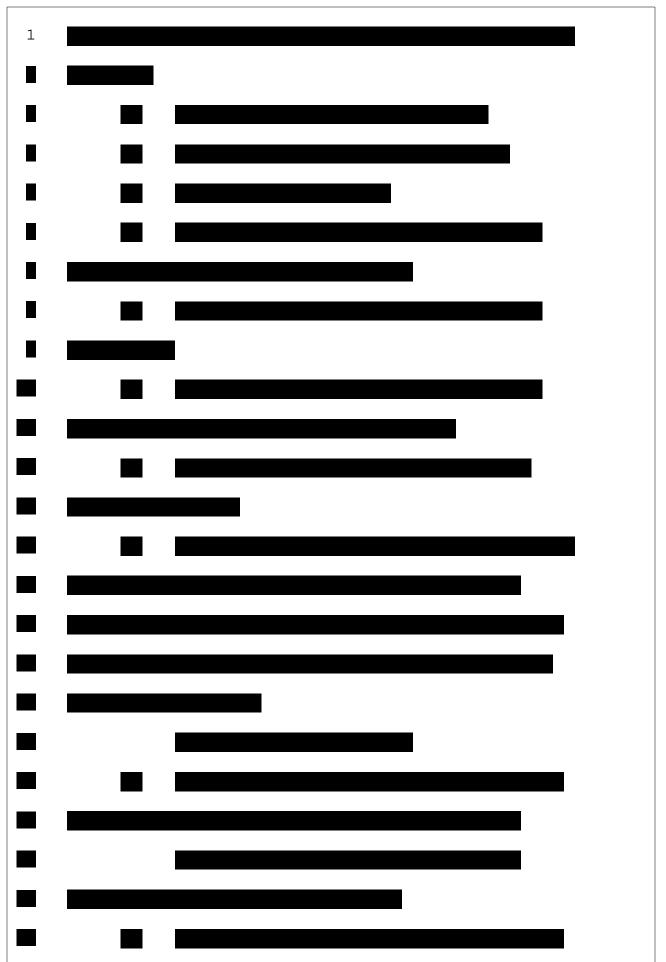


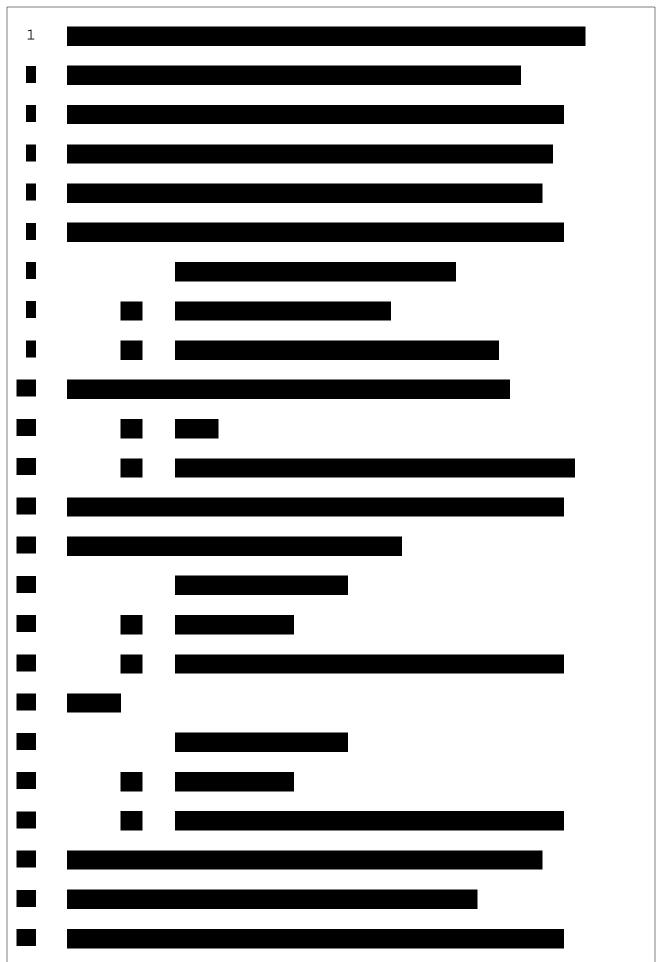


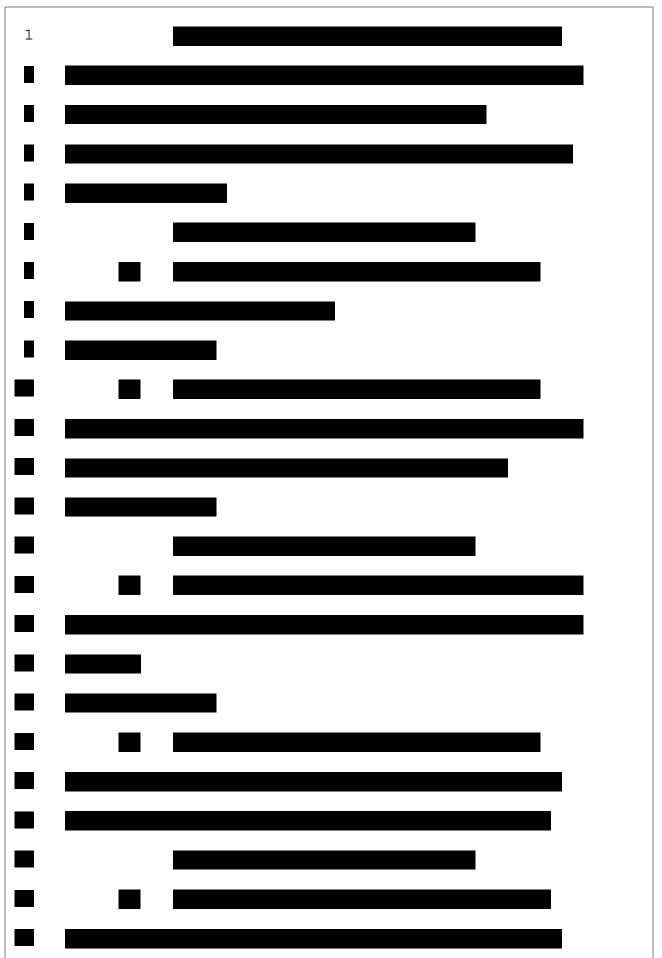


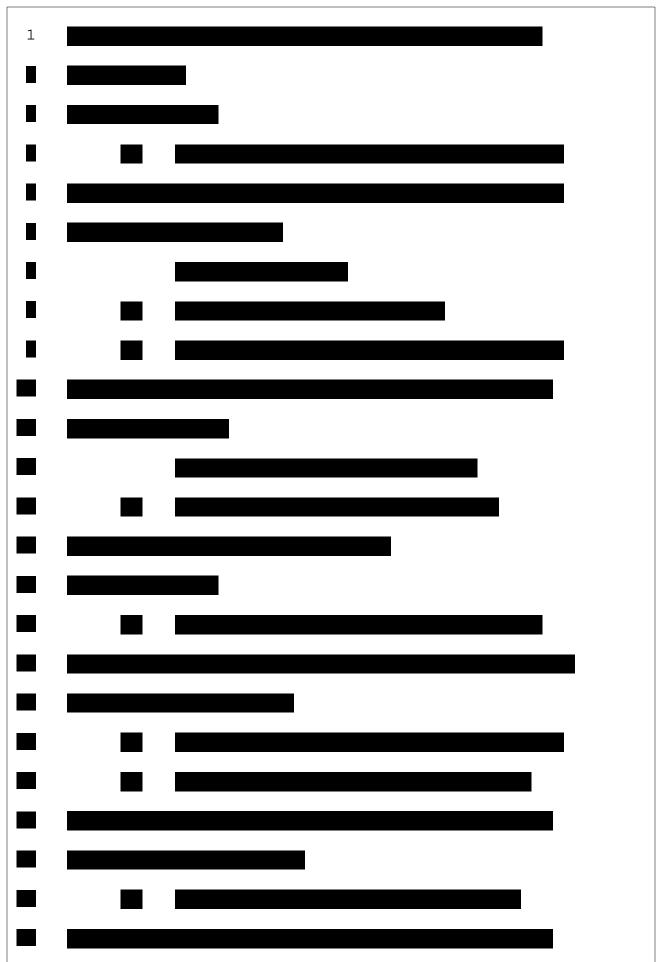


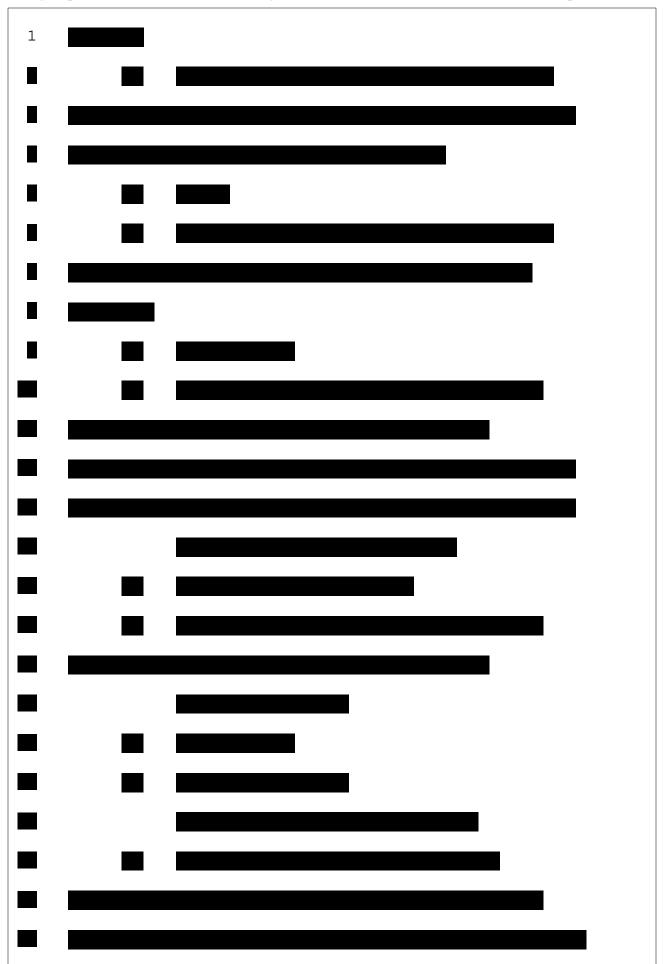


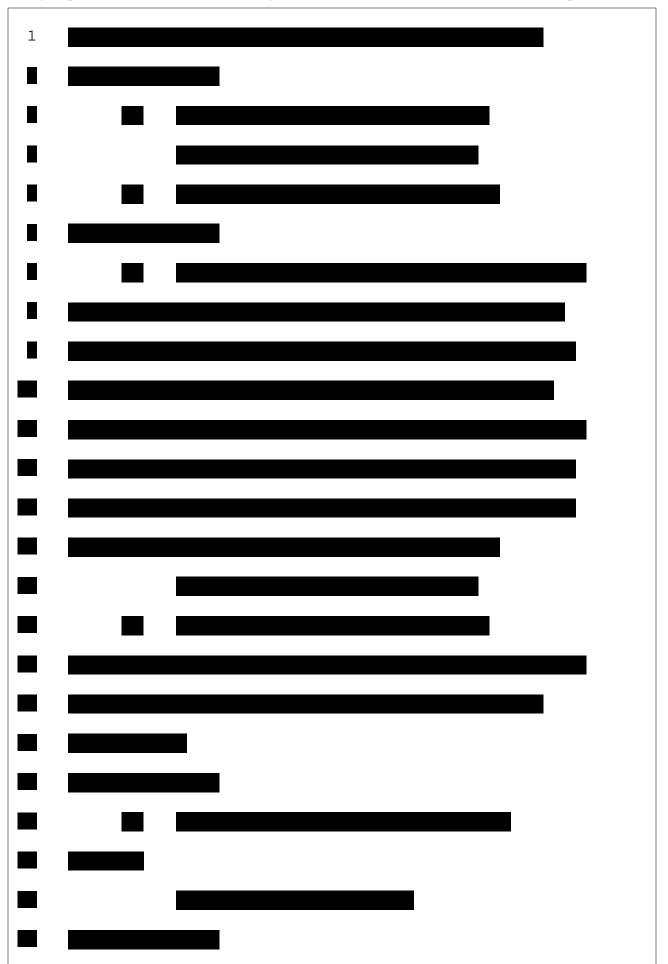


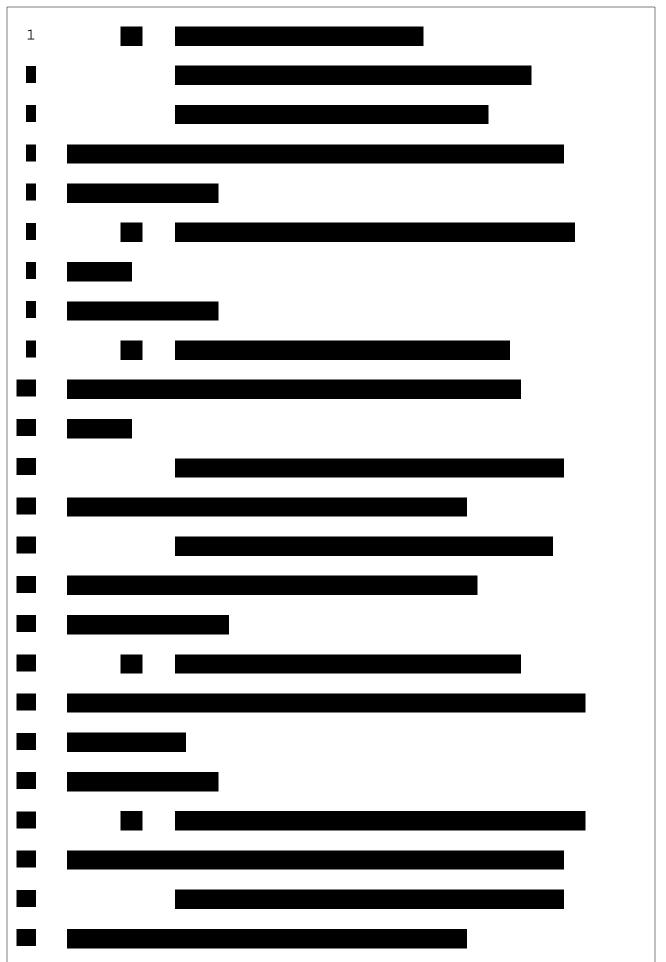


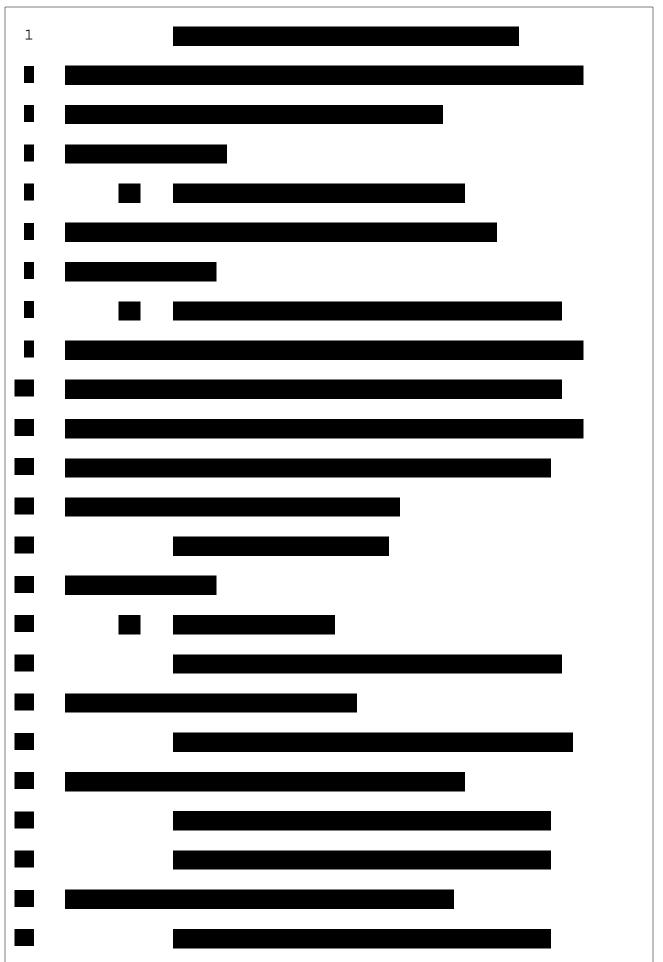












1 12 To prepare for the deposition today, 0. 13 what did you do? 14 I had meetings with our internal and 15 outside counsel. 16 Q. How long did you meet with counsel 17 inside CVS to prepare for today's deposition? 18 MS. MILLER: Object to form. 19 I believe we met three or four times. Α. 20 BY MR. ELSNER: 21 Q. How long were those meetings? MS. MILLER: Object to form. 22 They varied in length. 23 Α. BY MR. ELSNER: 24

- Q. What's your best estimate of the total
- 2 number of hours you met with inside counsel to
- 3 prepare for today's deposition?
- 4 MS. MILLER: Object to form.
- 5 A. I don't recall how long I prepared
- 6 with inside counsel, counsel at -- our internal
- 7 CVS counsel. I don't recall. I can't put hours
- 8 on it. I can't recall how long.
- 9 BY MR. ELSNER:
- 10 Q. What about your outside counsel, how
- 11 many days, hours did you spend preparing for
- 12 your deposition with them?
- 13 A. We met three or four times.
- Q. Did you meet yesterday? Don't say you
- 15 don't recall.
- MS. MILLER: Object to form.
- 17 Objection.
- 18 BY MR. ELSNER:
- 19 Q. Did you meet with counsel yesterday?
- 20 A. Yes.
- Q. How long?
- A. Most of the day.
- Q. Seven hours, six hours?
- MS. MILLER: Object to form.

- 1 MR. ELSNER: What's the objection? He
- 2 said most of the day, I asked six or
- 3 seven hours. What's the objection?
- 4 MS. MILLER: Six or seven hours of the
- 5 day yesterday?
- 6 MR. ELSNER: Yes.
- 7 MS. MILLER: Just wasn't clear.
- 8 MR. ELSNER: That's not a valid
- 9 objection.
- 10 BY MR. ELSNER:
- 11 Q. How many hours did you meet with your
- 12 counsel yesterday?
- 13 A. We were probably together for seven
- 14 hours.
- 15 Q. Okay. Did you review documents? Yes
- or no.
- MS. MILLER: Objection.
- I'm going to instruct you not to
- answer to the extent it would reveal any of the
- documents that we discussed based on privilege
- 21 and work product. You may answer the question.
- 22 A. We reviewed documents.
- 23 BY MR. ELSNER:
- Q. Did you meet with counsel before

- 1 yesterday?
- 2 A. Yes.
- Q. When was the prior meeting and how
- 4 long did it last, roughly?
- 5 A. Prior meeting was Tuesday.
- 6 Q. How long?
- 7 A. Most of the day.
- 8 Q. Six, seven hours?
- 9 A. I don't remember exactly.
- MS. MILLER: Object to form.
- 11 A. I don't remember exactly how long.
- 12 BY MR. ELSNER:
- Q. What time did you start?
- A. Sometime after 10:00 o'clock.
- Q. Where did you meet?
- 16 A. At One CVS.
- Q. When did the meeting end; before
- 18 lunch, after lunch?
- 19 A. I don't recall when it ended.
- Q. Dark outside, or not dark outside?
- MS. MILLER: Object to form.
- 22 BY MR. ELSNER:
- Q. This was Tuesday, right?
- MS. MILLER: Object to form.

- 1 A. I don't recall exactly the time that
- 2 it ended.
- 3 BY MR. ELSNER:
- 4 Q. Did you meet for more or less than
- 5 four hours that day?
- A. I don't remember exactly how long we
- 7 met. It was for a number of hours.
- MR. ELSNER: To move this along, can
- 9 you give us an idea of how long you spent with
- the witness preparing for the deposition? He
- seems unable to recall what happened this week.
- MS. MILLER: I'm not going to make a
- 13 representation. Ask your questions.
- MR. ELSNER: You're unwilling to tell
- us how long you met with the witness?
- MS. MILLER: No, I just --
- MR. ELSNER: He can't answer the
- 18 question.
- MS. MILLER: He is answering the
- 20 question. He's trying --
- MR. ELSNER: He says he can't
- 22 remember.
- MS. MILLER: Well, he said --
- MR. ELSNER: He can't remember when

- 1 the meeting ended on Tuesday. It began at
- 2 10:00 in the morning, and he can't tell me when
- 3 it ended.
- 4 BY MR. ELSNER:
- 5 Q. Did you go past lunch? Did you work
- 6 into the evening? I mean, five, six hours?
- 7 Please, someone, either of you, tell me. Can
- 8 you answer the question?
- 9 A. Tuesday we met for a good part of the
- 10 day. I don't remember exactly.
- 11 Q. What does that mean, "a good part of
- 12 the day"?
- 13 A. I had many other meetings during the
- day, so I don't know exactly how long we met
- 15 for.
- 16 Q. Prior to that meeting on Tuesday and
- 17 the one yesterday, did you meet with counsel to
- 18 prepare for the deposition before that?
- 19 A. We met on Monday.
- Q. So you met on Monday, you met on
- 21 Tuesday, and you met yesterday. How long did
- 22 you spend on Monday preparing for the
- 23 deposition?
- A. I believe Monday was a good part of

- 1 the day.
- Q. You spent a good part of the day
- 3 meeting with counsel on Monday, a good part of
- 4 the day meeting with counsel on Tuesday, and you
- 5 spent seven hours yesterday, is that right?
- 6 A. I don't know --
- 7 MS. MILLER: Object to form.
- 8 MR. ELSNER: That's what his testimony
- 9 was, right?
- 10 A. I don't know exactly how long we spent
- 11 yesterday, but it was most of the day, a good
- 12 part of the day.
- 13 BY MR. ELSNER:
- 14 Q. I thought you said seven hours.
- Did you meet over the weekend?
- 16 A. We did not meet over the weekend.
- Q. Did you meet last week?
- 18 A. We did not meet last week.
- 19 Q. And none of the process and system,
- the questions that I've talked with you about
- 21 today, from 2014 to 2012, you did not have any
- 22 memory of any of those things we discussed,
- 23 correct?
- MS. MILLER: Object to form.

- That's not what he testified to. He
- 2 testified --
- MR. ELSNER: Well, the jury can
- 4 determine that.
- 5 BY MR. ELSNER:
- 6 Q. Is there something in particular that
- 7 you remember that we discussed today that you
- 8 can highlight for me?
- 9 MS. MILLER: Object to form.
- The record speaks for itself. He's
- 11 testified about the processing systems between
- 12 2012 and 2014.
- MR. ELSNER: You can say object to
- 14 form.
- 15 BY MR. ELSNER:
- Q. What's the answer, please?
- 17 A. Nothing that we have reviewed today,
- 18 to the best of my recollection, I recall from
- 19 the time either they were created or they were
- 20 first reviewed by me. I don't recall the
- 21 documents.
- Q. Did you meet with the Analysis Group
- to consider their proposal to develop and
- enhance suspicious monitoring system for CVS?

- 1 A. I participated in meetings with AG
- where enhancements to the system or the new
- 3 system were discussed.
- 4 Q. You were among the team that
- 5 reviewed -- that solicited and reviewed
- 6 proposals to partner with CVS in the development
- 7 of a suspicious order monitoring algorithm and
- 8 system, correct?
- 9 MS. MILLER: Objection. I'd like to
- 10 lodge an objection right after the question in
- 11 296:04. It's a follow-up to the prior question
- 12 I'd objected to, but I'd like that reflected on
- 13 the record. Thank you.
- I apologize for interrupting on the
- 15 record.
- 16 BY MR. ELSNER:
- 17 Q. You were among the team that reviewed
- 18 and solicited -- that solicited and reviewed
- 19 proposals for consultants to assist CVS with its
- development of an SOM algorithm and enhanced
- 21 program, correct?
- 22 A. I was part of a team that was
- 23 participating in conversations prior to
- 24 selecting a vendor. I don't remember viewing

- 1 any specific proposals.
- Q. How many other vendors submitted
- 3 proposals? Was it anyone other than the Buzzeo
- 4 Group and the Analysis Group?
- 5 A. Those are the only two that I recall.
- 6 O. Who would know if there are others?
- 7 MS. MILLER: Object to form.
- 8 A. I don't know who would know that.
- 9 MR. ELSNER: This is Motley Rice 9.
- 10 I'm going to mark this as the next exhibit.
- 11 (Whereupon, CVS-Schiavo-21 was marked
- for identification.)
- 13 BY MR. ELSNER:
- 14 O. This is another e-mail that you sent
- to Tom Bourque. The date here is December 12,
- 16 2012. It reads "Opportunity Page, SOM Flow
- 17 Chart, " and then you wrote "These are documents
- 18 mentioned in my status report just in case
- 19 Pawlik wants to see them when we are going over
- 20 the SOM slide or Inventory Cycle count slide."
- 21 Did I read that correctly?
- 22 A. That's what it says.
- Q. Okay. And then it appears to be a
- list of kind of action items, and there's an a

- 1 column for Duration, Start, Finish, and
- 2 Percentage Complete.
- 3 Do you see that?
- 4 A. I see that.
- 5 Q. Okay. And you drafted this?
- 6 A. I don't know if I drafted this.
- 7 Q. You sent it to your boss, right?
- 8 A. I sent it to my boss.
- 9 Q. And you said these are the documents
- 10 that you mentioned in your status report, so are
- these documents that you drafted or did somebody
- 12 else draft these?
- 13 A. I don't recall. I don't remember
- 14 drafting this.
- 15 Q. Would there have been anyone else that
- 16 would have drafted this, to your knowledge, that
- 17 you would have sent to Mr. Bourque? I couldn't
- 18 see any other e-mails where someone forwarded it
- 19 to you.
- MS. MILLER: Object to form.
- 21 A. It's very possible someone else
- 22 drafted this.
- 23 BY MR. ELSNER:
- Q. Who would it be?

- 1 A. It could have been anyone on the
- 2 current SOM team.
- Q. Okay. Can I ask you to look at
- 4 Page 103375? You see there's an ID number that
- 5 lists sequential numbers. If you go down to 48.
- 6 Do you see where I am? You go across 48. It
- 7 reads "Gap Analysis between current SOM & New."
- 8 Do you see that?
- 9 A. I see that.
- 10 Q. All right. And then if you go over to
- 11 Percentage Complete, it says 50 percent.
- Do you see that?
- 13 A. I see where it says that.
- Q. Okay. And then the Resource Names
- 15 associated with that analysis are you and
- 16 Tulley. Is that right?
- 17 A. Yes.
- 18 Q. Okay. So you were to perform a gap
- analysis between the current SOM system in place
- in 2012 and the new system that you were going
- 21 to develop, is that right?
- MS. MILLER: Object to form. Object
- on attorney/client privilege grounds.
- To the extent the witness can answer

- 1 the question without revealing attorney/client
- 2 communications, you can answer.
- A. I see what it says there. I see my
- 4 name with Tulley's name. I don't recall doing a
- 5 gap analysis. I don't recall doing that.
- 6 BY MR. ELSNER:
- 7 Q. Did CVS ever compare the old system
- 8 and come up with a list of items that are going
- 9 to be in the new system other than the documents
- 10 that I've shown you today that you drafted about
- 11 that? Is there anyone at CVS, to your
- 12 knowledge, that would do that?
- MS. MILLER: Object to form. Object
- on attorney/client privilege grounds.
- And to the extent the witness can
- 16 answer the question without revealing
- 17 attorney/client communications, he can answer.
- 18 Otherwise I instruct him not to answer.
- 19 A. I don't recall anyone that did that.
- 20 BY MR. ELSNER:
- Q. Your name is listed next to that task,
- 22 correct, with Tulley? Who is Tulley?
- 23 A. I believe that's Chris Tulley.
- Q. And your name is listed with his as

- 1 responsible for that task, correct?
- 2 A. My name with Chris's is in the
- 3 resources name.
- 4 Q. You were also responsible for
- 5 identifying all the DEA requirements in the next
- 6 item, correct, item 49?
- 7 A. I see my name there, but I don't think
- 8 I would be relied on to identify all DEA
- 9 requirements.
- 10 Q. If you go to the next page under 53,
- it says "Develop an algorithm methodology to
- 12 find orders of interest (using Thresholding
- 13 approach)." You and Tulley are listed there,
- 14 correct?
- MS. MILLER: Mike, where are you?
- MR. ELSNER: I'm at 63.
- 17 MS. MILLER: 63.
- 18 MR. ELSNER: 103376.
- MS. MILLER: Thank you.
- 20 A. I see my name there.
- 21 BY MR. ELSNER:
- Q. Okay. It's one of your
- 23 responsibilities under the new SOM system, is
- 24 that right?

- 1 MS. MILLER: Object to form.
- A. I see what it says there, but at no
- 3 time do I recall it being my responsibility to
- 4 develop any kind of algorithm. I don't know how
- 5 I would do that.
- 6 MR. ELSNER: Why don't we go off the
- 7 record quickly?
- 8 THE VIDEOGRAPHER: We're going off the
- 9 record at 3:41 p.m.
- 10 (Whereupon, a recess was taken.)
- 11 THE VIDEOGRAPHER: We're back on the
- 12 record at 3:47 p.m.
- 13 BY MR. ELSNER:
- Q. Mr. Schiavo, I put back before you
- 15 your year-end review from 2012. This is
- 16 Exhibit 9. We looked at this earlier. It's
- dated January 25th, 2013. I'm going to ask you
- 18 to look at Page 8 of 11, which is at 120603.
- 19 A. Okay.
- Q. Okay. And at the end of that first
- 21 full paragraph, it says "To date, I have
- 22 contributed to the following."
- Do you see where I'm at?
- A. I see where you're at.

- Q. Okay. And the first plus there, it
- 2 says "To identify gaps in the current SOM system
- 3 that need to be addressed when developing the
- 4 new system."
- 5 Did I read that correctly?
- 6 A. That's what that says.
- 7 Q. And did you do that?
- 8 MS. MILLER: Object to form.
- 9 A. I don't recall ever doing a deep dive
- into the system at this time and identifying
- 11 CAPS. I think at the time of this review I was
- 12 probably with CVS for a few months.
- 13 BY MR. ELSNER:
- Q. That's what you wrote, though, right,
- 15 "Identify gaps in the current SOM system that
- need to be addressed when developing the new
- 17 system, " correct?
- 18 A. That's what it says in my year-end
- 19 review.
- Q. Okay. And that's what it said in the
- 21 document we just looked at, that you were going
- 22 to do a gap review, correct?
- MS. MILLER: Object to form.
- A. It's -- I recall it saying something

- 1 about doing a gap analysis in the other
- 2 document.
- 3 BY MR. ELSNER:
- 4 Q. Comparing the old system to the new
- 5 system, right?
- 6 MS. MILLER: Object to form.
- 7 A. Can I look to see what the exact
- 8 wording was?
- 9 BY MR. ELSNER:
- 10 Q. Sure.
- 11 A. Do we know which number it was?
- 12 O. I believe it was 48 or 49.
- MS. VELDMAN: 63.
- A. 63 was "Develop algorithm
- 15 methodology."
- 16 BY MR. ELSNER:
- 17 Q. I think it's the page before that.
- 18 A. 48 says "Gap analysis between current
- 19 SOM and new SOM."
- Q. And that's what you wrote in your
- 21 review, "Identify gaps in the current SOM system
- that need to be addressed when developing the
- 23 new system, "right?
- MS. MILLER: Object to form.

- 1 A. It says I contributed to that process.
- 2 I don't remember to what extent.
- 3 BY MR. ELSNER:
- Q. Okay. Two more plusses down it says
- 5 "Selecting AGI as the vendor to help develop an
- 6 algorithm in order to identify potentially
- 7 suspicious orders."
- 8 Did I read that correctly?
- 9 A. That's what it says.
- Q. Okay. And then on 63 of the prior
- exhibit, line 63, it says "Develop algorithm
- methodology to find orders of interest."
- 13 Correct?
- MS. MILLER: Object to form.
- 15 A. This is saying with my name next to it
- 16 "Develop algorithm methodology." But again, I
- don't ever recall being in charge of developing
- 18 an algorithm.
- 19 BY MR. ELSNER:
- Q. Well, one of the items that you wrote
- in your annual review was "Selecting AGI as the
- vendor to help develop an algorithm in order to
- 23 identify potentially suspicious orders." Is
- that one of the things listed in your annual

- 1 review?
- 2 A. It says that one of the things that I
- 3 contributed with was "selecting AGI to help
- 4 develop an algorithm, " and I read that much
- 5 differently than me being responsible for
- 6 developing an algorithm.
- 7 Q. But you worked on it, right?
- MS. MILLER: Objection to form.
- 9 BY MR. ELSNER:
- 10 Q. I didn't say you were the only one
- 11 responsible. That was one of the things you
- 12 worked on, right?
- 13 A. I was -- I participated in meetings
- 14 with other team members, but I don't think I had
- a role in developing, writing the algorithm.
- 16 Q. Okay. Toward the bottom it says
- 17 "Drafting of the Stop Order/Order Resumption
- 18 SOP." You contributed to that, right?
- MS. MILLER: Object to form.
- 20 You're on the --
- 21 BY MR. ELSNER:
- Q. Back on your annual review, second to
- 23 last plus.
- A. I see "Drafting of Stop Order/Order

- 1 Resumption SOP." But that's not a -- that is
- 2 not a policy that I'm -- I recall or am familiar
- 3 with. I don't know if that was ever an official
- 4 policy.
- 9 Q. Well, we saw those documents today.
- 6 Was it not an official policy of CVS, the policy
- 7 that you drafted with Aaron Burtner?
- MS. MILLER: Object to form.
- 9 And maybe it would be helpful to show
- 10 him the exhibit that you're referring to so he
- 11 can take a look.
- 12 BY MR. ELSNER:
- 13 Q. You don't recall working on that
- 14 policy with Aaron Burtner, a stop order policy,
- whether we were going to ship -- whether we were
- 16 going to stop the order of that exact drug or
- 17 the family of drugs? We discussed it for about
- 18 20 minutes.
- MS. MILLER: Object to form. He's
- 20 already given testimony on it.
- MR. ELSNER: I know, that's why I
- thought it would be simple to say one of the
- things that was listed was the drafting of the
- 24 stop order/order resumption SOP.

- 1 BY MR. ELSNER:
- Q. That's one of the things listed in the
- 3 review, correct?
- 4 A. I don't recall the title of the policy
- 5 we reviewed today is the same policy that's
- 6 referred to right here. I don't recall the
- 7 title of the policies we reviewed today.
- 8 Q. Did you write in your annual review --
- 9 did you write "Drafting of the Stop Order/Order
- 10 Resumption SOP"? Yes or no.
- 11 A. It says there that I drafted the stop
- order/order resumption SOP, which is a policy.
- 13 I'm not sure what policy that's referring to.
- Q. I know, we've established you can't
- 15 remember.
- MS. MILLER: Object to form.
- 17 BY MR. ELSNER:
- 18 Q. The next plus says "Providing input on
- 19 key decisions (Reporting to DEA offices, what
- 20 drugs to hold when an order flags, whether or
- 21 not to include outside vendor orders)."
- 22 Correct?
- A. That's what that says.
- Q. Okay. So there was a discussion at

- 1 CVS whether or not to include outside vendor
- orders as part of the SOM process in 2012,
- 3 correct?
- 4 MS. MILLER: Object to form.
- 5 A. In 2012 I believe we discussed the
- 6 potential of including OV order in the new or
- 7 enhanced system that we were building.
- 8 BY MR. ELSNER:
- 9 Q. Okay. And it did not exist in the old
- 10 system, right?
- MS. MILLER: Object to form.
- 12 A. I don't recall if OV orders were part
- of the old system or not.
- 14 BY MR. ELSNER:
- 15 Q. I'm going to mark this.
- 16 Also in there is you provided input on
- 17 another key decision, which was what drugs to
- 18 hold when an order flags, is that right, whether
- to hold that specific drug or whether to hold
- the family of drugs? That's one of the other
- 21 things that you provided input on for key
- 22 decisions, correct?
- MS. MILLER: Object to form.
- A. That's what it says. But again, this

- 1 is in 2012 when I don't believe any final
- decisions have been made on how our new or
- 3 enhanced system was -- all the elements that
- 4 were going to be in there.
- 5 BY MR. ELSNER:
- 6 Q. I understand. But that's one of the
- 7 things you provided input on, right, whether to
- 8 do the family of drugs or specific drugs or all
- 9 controlled drugs, right?
- 10 A. That's what it says.
- 11 Q. It also says you were going to provide
- input on reporting to the DEA offices, correct?
- 13 A. That's what it says.
- MR. ELSNER: Okay. Mark this next
- document as Exhibit 22. This is Motley Rice 23.
- 16 (Whereupon, CVS-Schiavo-22 was marked
- for identification.)
- 18 BY MR. ELSNER:
- 19 Q. CVS did hire the Analysis Group as a
- 20 consultant, right?
- 21 A. That's who we used to develop -- help
- 22 develop our SOM system.
- Q. And so CVS hired them as a consultant,
- is that right? Well, they didn't do it for

- 1 free, right?
- 2 A. That's -- yes, that's who we used to
- 3 do it.
- 4 Q. And you hired them?
- 5 A. I didn't personally hire them.
- 6 Q. I asked if CVS hired them.
- 7 MS. MILLER: Object to form.
- 8 BY MR. ELSNER:
- 9 Q. Did CVS hire the Analysis Group to
- 10 assist it in developing its SOM program?
- 11 A. Yes, the Analysis Group helped us
- developed our SOM.
- 13 Q. In February of 2013 there is this
- 14 note, that memo, from the Analysis Group which
- is a request for data for the SOM algorithm data
- 16 inputs. Do you see that in the "Re" line? The
- 17 date is February 4, 2013.
- 18 A. I see that.
- Q. And there's some -- there's a listing
- 20 here at the end of the second paragraph, there's
- 21 sort of some numbers here, 1 through 10. This
- is the data that the Analysis Group was
- requesting in order to build the algorithm.
- Do you see that?

- 1 A. I see the listing of elements there
- 2 that it looks like they're requesting.
- Q. Okay. Who at CVS was responsible for
- 4 gathering this information to provide to the
- 5 Analysis Group, to the extent you know?
- 6 A. I don't know who would have provided
- 7 this information.
- Q. Did you ever review the information or
- 9 the data that the Analysis Group was going to
- 10 use to compile the algorithm?
- 11 A. I don't recall reviewing any specific
- data provided to Analysis Group.
- Q. Under 8 it says "Store dispensing,"
- 14 and it lists under A, B, C and D, prescription
- information, patient information, prescriber
- 16 information, pharmacist information. Is this
- information -- was that a component of the SOM
- 18 program in place in 2012 at CVS and early 2013?
- MS. MILLER: Object to form.
- 20 A. I don't recall whether it was or was
- 21 not included.
- 22 BY MR. ELSNER:
- O. But it was information that was
- include -- was sent to the Analysis Group to be

- included in its new algorithm for CVS, correct?
- MS. MILLER: Object to form.
- 3 A. I see from this document that they
- 4 requested it.
- 5 BY MR. ELSNER:
- 6 Q. Do you know whether it was used by the
- 7 Analysis Group as a component of the algorithm?
- 8 MS. MILLER: Object to form.
- 9 A. I'm not -- I'm not familiar with
- 10 exactly what is in the algorithms.
- 11 BY MR. ELSNER:
- 12 Q. Well, do you know whether the system
- 13 analyzes dispensing information?
- MS. MILLER: Object to form.
- 15 A. The current system we have today I
- 16 know takes into account dispensing information.
- 17 BY MR. ELSNER:
- Q. And that system is based on the system
- 19 that the Analysis Group built for CVS, is that
- 20 right?
- 21 A. Yes, the current system we have today
- 22 is what the Analysis Group assisted with.
- Q. And that includes prescribing
- information, patient information, and pharmacist

- info, correct?
- MS. MILLER: Object to form.
- 3 A. Speaking specifically to the
- 4 algorithms, I don't know what is in all of the
- 5 algorithms. However, I'm aware that these are
- 6 data elements that would be available to the SOM
- 7 analysts during due diligence.
- 8 BY MR. ELSNER:
- 9 Q. Today?
- 10 A. Today.
- 11 Q. Do you know what was available to the
- 12 SOM analysts in 2012 before this system went
- 13 into effect?
- MS. MILLER: Object to form.
- 15 A. I don't know of all the information
- 16 that was available to them back in 2012.
- 17 BY MR. ELSNER:
- 18 Q. There was a period of time in which
- 19 the current SOM system was working at CVS and
- you were working with the Analysis Group to
- 21 develop the new SOM system, correct?
- 22 A. I believe so.
- Q. And the new SOM system that went into
- effect did not go into effect until 2014, is

- 1 that right?
- 2 A. I believe the new SOM system started
- 3 to roll out in 2014.
- 4 Q. 2014. It was on a rolling basis; you
- 5 did a few distribution centers at a time, is
- 6 that right?
- 7 A. I don't remember the exact dates, but
- 8 I know it was a rollout approach to the
- 9 distribution centers.
- 0. You didn't hit all distributions at
- one exact time with the new system, correct?
- 12 A. No, I don't believe they were all
- 13 rolled out at the same time.
- Q. Okay. And that process of rollout
- continued throughout 2014 into November of 2014,
- 16 is that right?
- 17 A. I don't recall the rollout schedule
- 18 and when it completed.
- 19 Q. But at least through 2012 when you
- 20 started through some point in 2014 CVS was using
- 21 the old system until the rollout for each
- 22 distribution center, and as the rollout came
- into effect the new system would come into place
- 24 for that distribution center, is that right?

- 1 MS. MILLER: Object to form.
- 2 BY MR. ELSNER:
- Q. And the old distribution centers were
- 4 still using the old process, correct?
- 5 MS. MILLER: Object to form.
- 6 A. I know that at the time of the
- 7 rollout, obviously the rollout involved
- 8 distribution centers going onto the new
- 9 developed algorithm and may have also used the
- old algorithm as well or old system as well.
- 11 And I believe at the time of the rollout the
- distribution centers that it hadn't been rolled
- out to were still utilizing the older suspicious
- order monitoring process.
- 15 BY MR. ELSNER:
- 16 Q. Okay. There never came a point in
- 17 time where you, you know, went to Indianapolis
- and sat down with the SOM analysts there that
- 19 were using the old SOM system to understand it,
- 20 is that true?
- MS. MILLER: Object to form.
- 22 A. I've never been to the Indianapolis
- 23 distribution center.
- 24 BY MR. ELSNER:

- Q. Okay. Have you ever sat down with
- 2 anyone at CVS and reviewed an IRR report from
- 3 the old suspicious order monitoring system at
- 4 CVS?
- 5 MS. MILLER: Object to form.
- 6 A. I am aware there were IRR reports. I
- 7 don't recall going through one with anyone on
- 8 the SOM team.
- 9 BY MR. ELSNER:
- 10 Q. Do you know how to read one?
- MS. MILLER: Object to form.
- 12 A. I don't recall having read an IRR. I
- 13 can't even think about it, whether -- I can't
- 14 remember what it looks like.
- 15 BY MR. ELSNER:
- Q. Okay. That wasn't part of what you
- 17 did at CVS, right?
- MS. MILLER: Object to form.
- 19 A. No, my role was never to review
- 20 orders.
- 21 BY MR. ELSNER:
- Q. Okay. And no one from CVS sat down
- with you and explained to you the system that
- 24 was in place with respect to suspicious order

- 1 monitoring at CVS in 2012 or 2013 or '14 as that
- 2 system was being used before the new enhanced
- 3 system was put into place, is that right?
- 4 MS. MILLER: Object to form.
- 5 A. At a high level I think I understood
- 6 the process, but no, I never recall a
- 7 conversation that went into details of exactly
- 8 what that old system -- how it functioned.
- 9 BY MR. ELSNER:
- 10 Q. Okay. Were you aware that they had
- 11 staffing issues with respect to the SOM
- management team in Indianapolis in 2013?
- MS. MILLER: Object to form.
- 14 A. I don't recall any management staffing
- 15 issues.
- 16 BY MR. ELSNER:
- 17 Q. Do you recall any staffing shortages
- or other staffing problems in the SOM review
- 19 team in 2013?
- 20 A. I don't recall any situations where we
- 21 couldn't review, well, orders of interest
- 22 that -- well, I don't remember there ever being
- 23 an instance where that was an issue.
- Q. That wasn't my question. I asked you

- 1 whether you were aware of any staffing shortages
- 2 or staffing issues in 2013.
- MS. MILLER: Object to form.
- 4 A. I don't recall any staffing issues
- 5 that affected the SOM process.
- 6 BY MR. ELSNER:
- 7 Q. In June of -- in June of 2013, Aaron
- 8 Burtner left CVS, and Kelly Baker assumed Aaron
- 9 Burtner's responsibilities until a replacement
- 10 could be found, is that true?
- 11 A. I recall at some point Aaron left. I
- don't remember exactly when that date was. And
- 13 I remember -- I somewhat remember working with
- 14 Kelly Baker on certain things. I don't know the
- 15 time frames.
- 16 (Whereupon, CVS-Schiavo-23 was marked
- for identification.)
- 18 BY MR. ELSNER:
- 19 Q. This is Exhibit 23. If you go -- you
- 20 know, with all e-mails you've got to sort of
- 21 look at the first one first -- last one first if
- 22 you want to see the flow. So I'm going to ask
- you to turn to Page 76116, which is the third
- 24 document of the e-mail I placed before you.

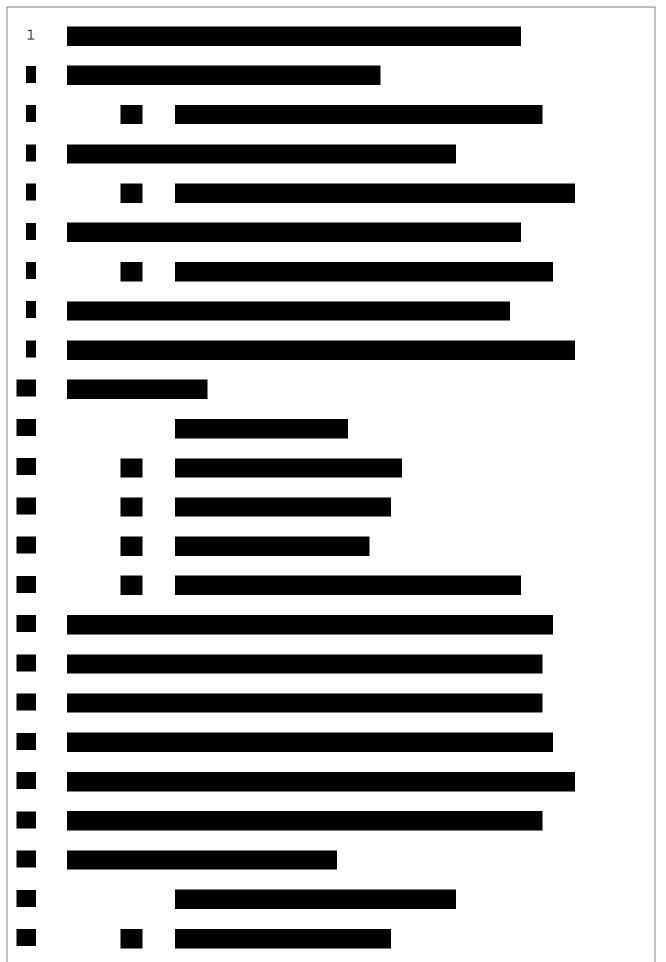
- 1 A. Okay.
- O. And this e-mail is from Shawna
- 3 Leuhring. Did I say that correctly?
- 4 A. I'm not sure how to pronounce her last
- 5 name.
- 6 Q. Have you ever met her?
- 7 A. I don't recall meeting Shawna.
- Q. Do you know who she works for?
- 9 A. At this time I'm not sure who she
- 10 reported to.
- 11 Q. But she was with CVS?
- 12 A. It says "Contractor" next to her name,
- 13 but I remember her working at CVS.
- 0. Okay. And this is an e-mail that she
- wrote to you dated July 1, 2013, is that right?
- 16 A. Yes.
- Q. And she says "Craig and Team, I've
- 18 updated the Archer SOM prototype with the
- 19 'Prescriber' changes, by removing the Letter and
- 20 Call fields from the 'Review' tab and moved the
- 21 'Action' tab section over to the 'Review' tab.
- 22 Attached, please find screenshots of the revised
- 23 SOM record. Please review and let me know if
- you see the need for any other changes."

- 1 And then it says below "I'll also need
- 2 to get requirements for Access Control." And
- 3 then there's a question and it says "Who will be
- 4 entering in the SOM cases?"
- 5 Do you see that, question number 1?
- A. I see where it says that.
- 7 Q. Okay. And if you see above her e-mail
- 8 there is an e-mail from you dated Tuesday,
- 9 July 2, 2013 to a number of people, including
- 10 Tom Bourque, Kelly Baker, Dean Vanelli.
- 11 Do you see that?
- 12 A. I see that.
- Q. Okay. It says "Team, My comment are
- in red, please review and make any
- 15 additions/changes necessary."
- So basically what is happening here is
- 17 Shawna sends you an e-mail asking who is going
- 18 to gain access control, and then you write in
- 19 red the answers to those questions, and they're
- 20 bolded here.
- 21 And next to question 1, you -- next to
- 22 "Who will be entering in the SOM cases?", you
- wrote "Kelly Baker and his team (yet to be
- 24 hired)," correct?

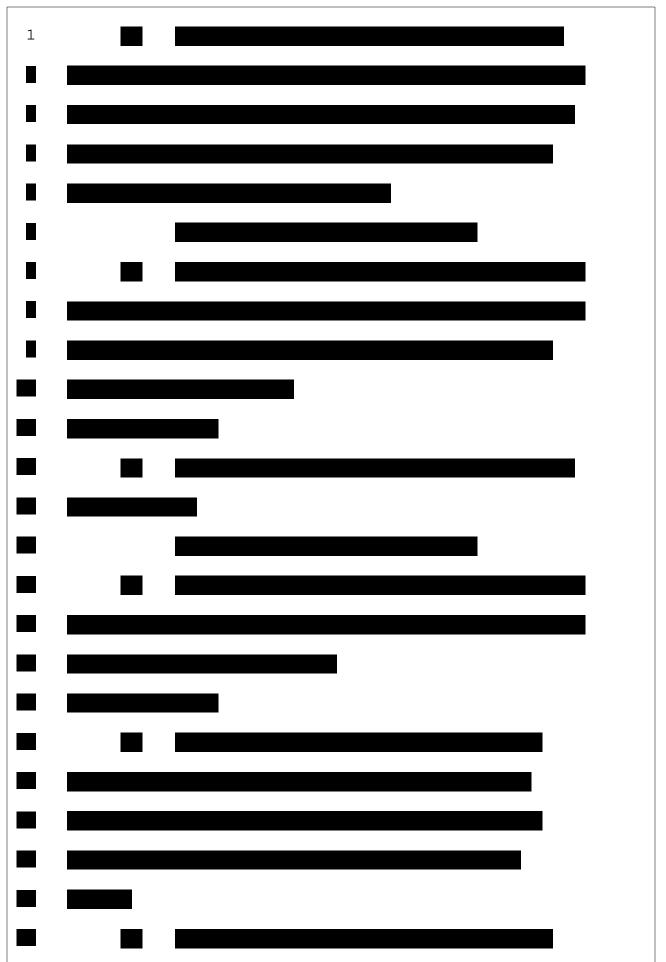
- 1 MS. MILLER: Object to form.
- 2 A. That's what it says.
- 3 BY MR. ELSNER:
- Q. Okay. So at this point in time we had
- 5 Kelly Baker reviewing -- doing the SOM review
- 6 for CVS, and you were going to include a team
- 7 which was yet to be hired, is that right?
- 8 A. That's what it says.
- 9 Q. And then it says "Who will be
- 10 approving the SOM cases" under question 4.
- 11 Do you see that?
- 12 A. I see what -- I see what it says, and
- 13 I'm not sure what that means.
- Q. Okay. It says "Who will be approving
- the SOM cases?" And you write in response
- 16 "Kelly Baker or Kelly's manager, or both."
- So at this point in time Kelly Baker
- 18 did not have a manager because Aaron Burtner had
- 19 left, correct?
- MS. MILLER: Object to form.
- 21 A. I don't know that to be true.
- 22

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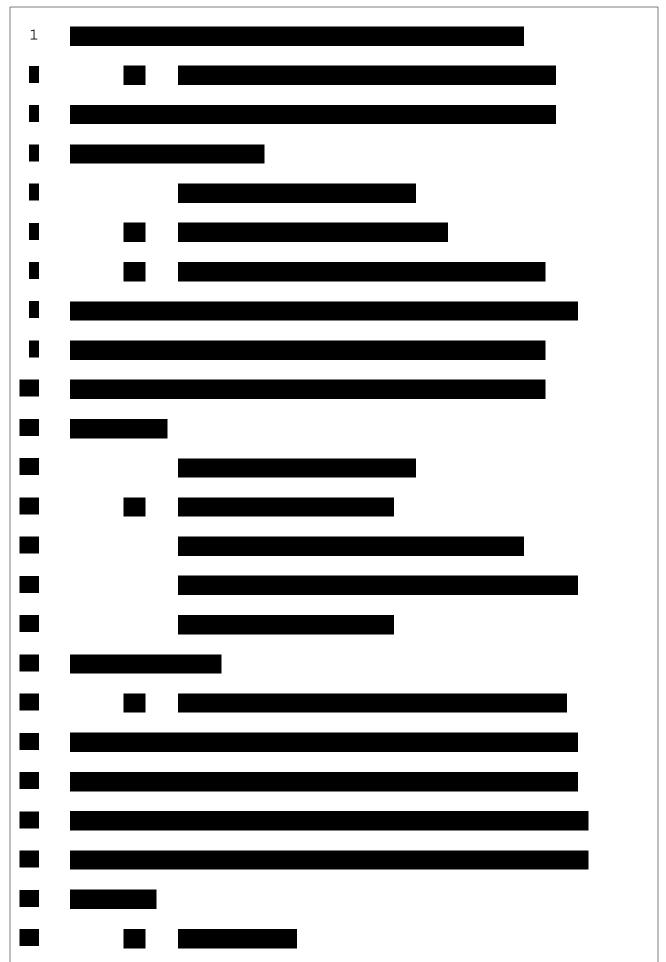




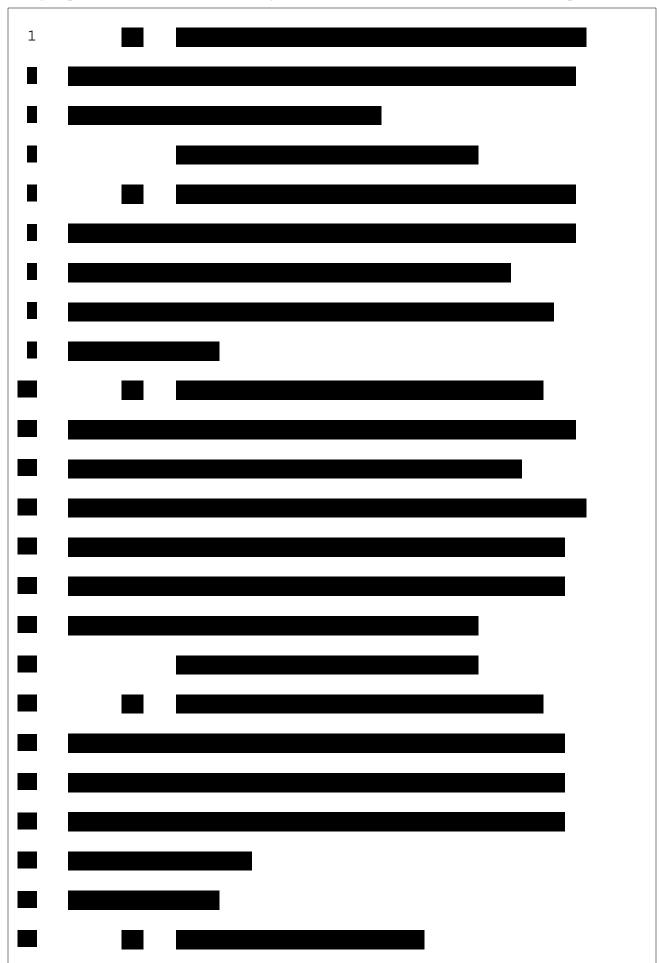
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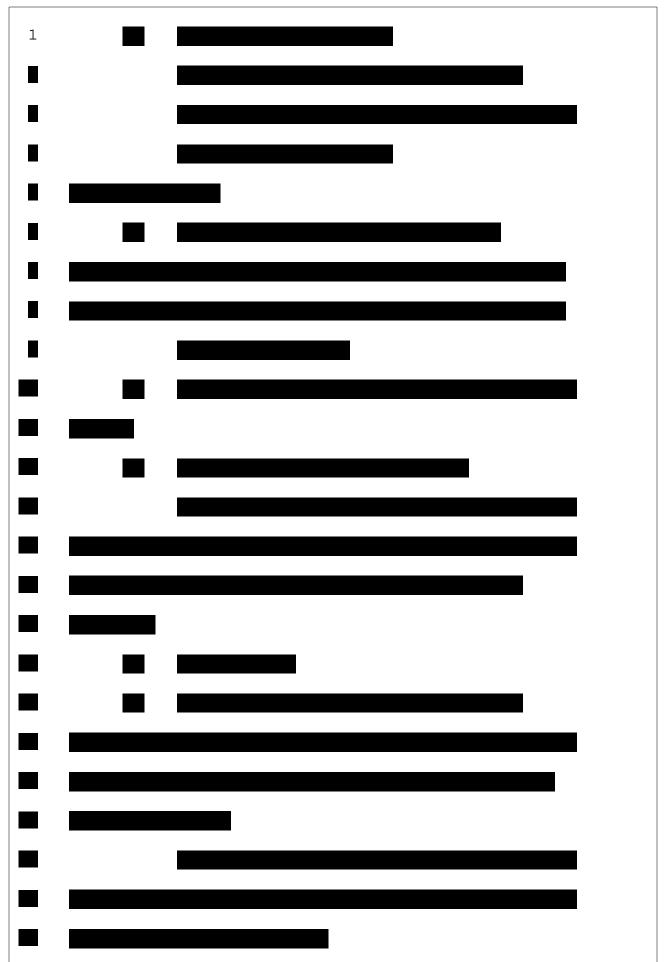


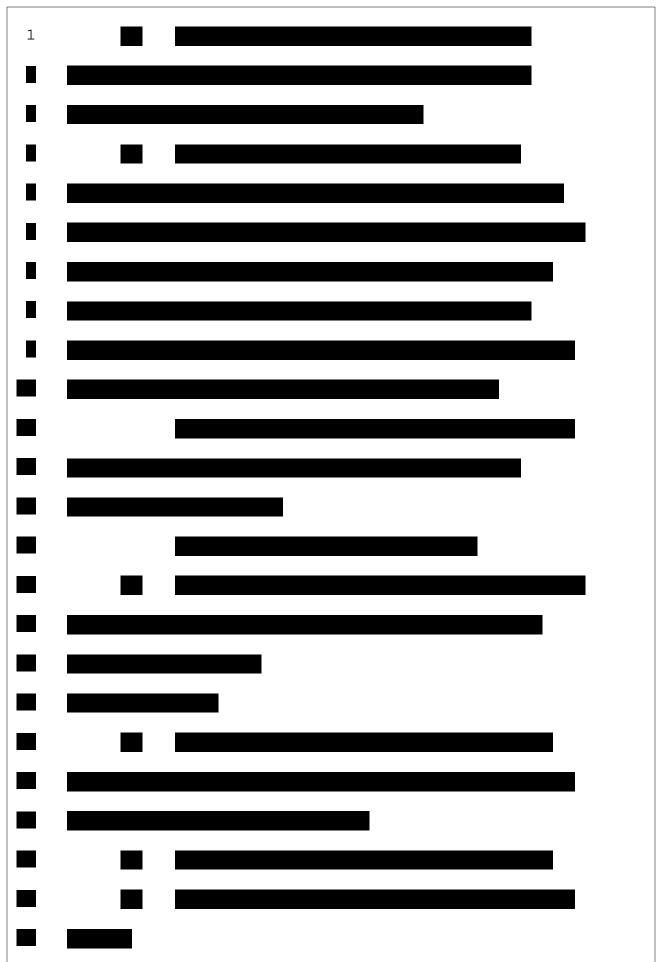
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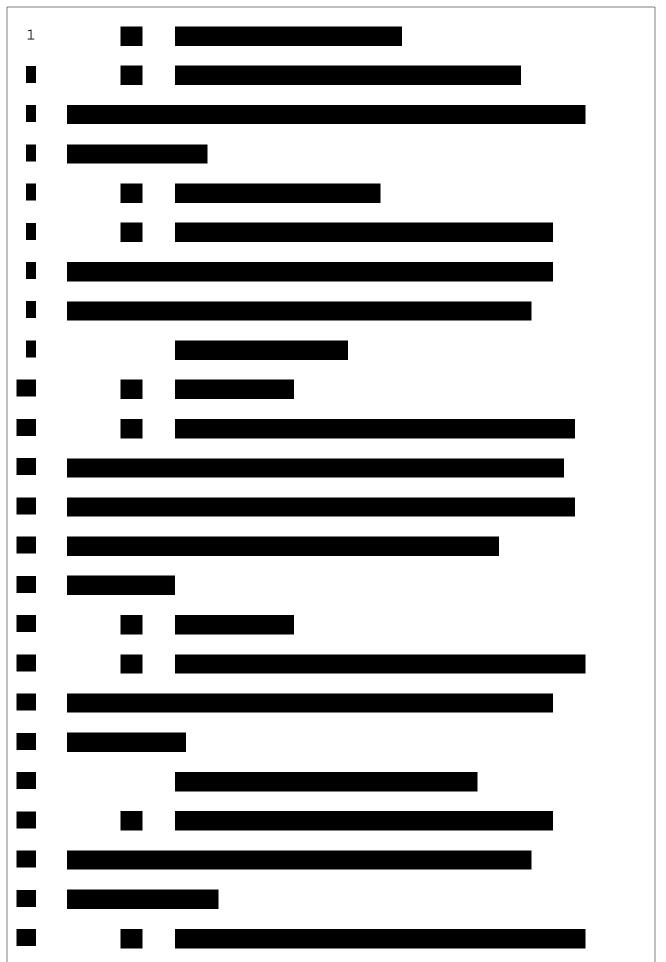


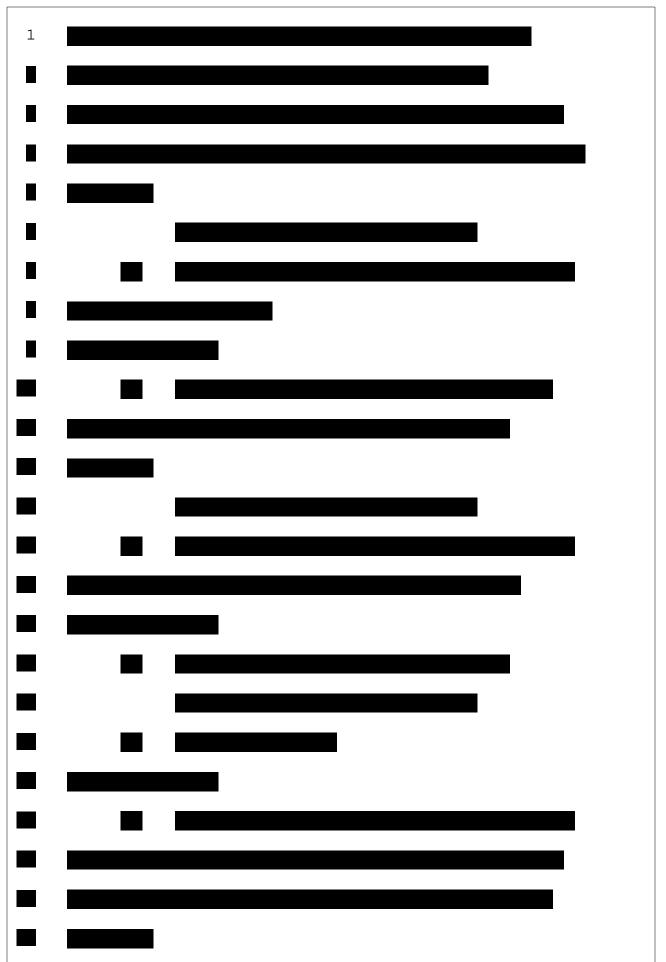
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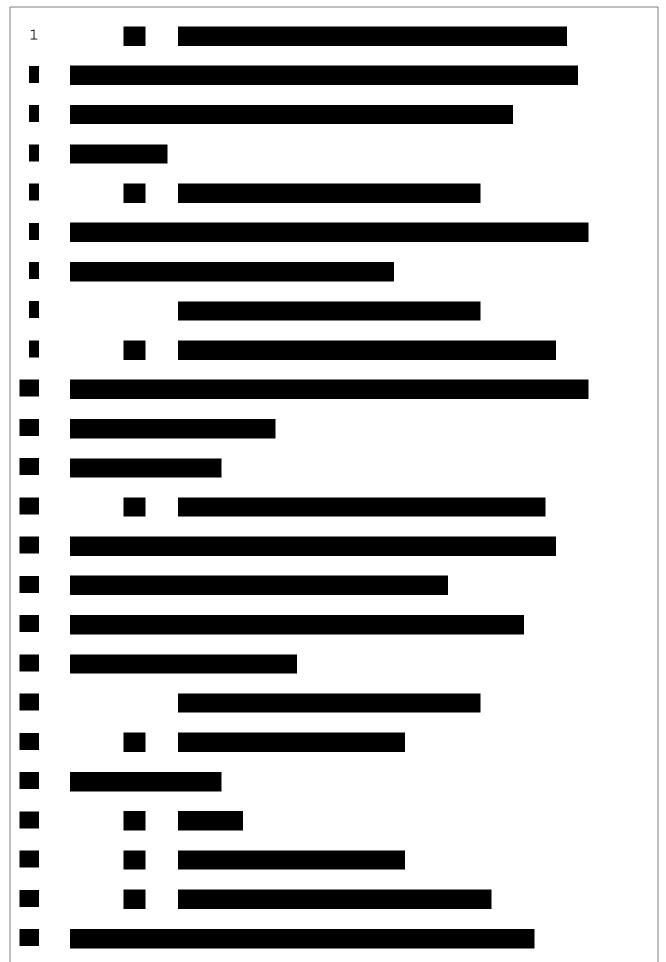


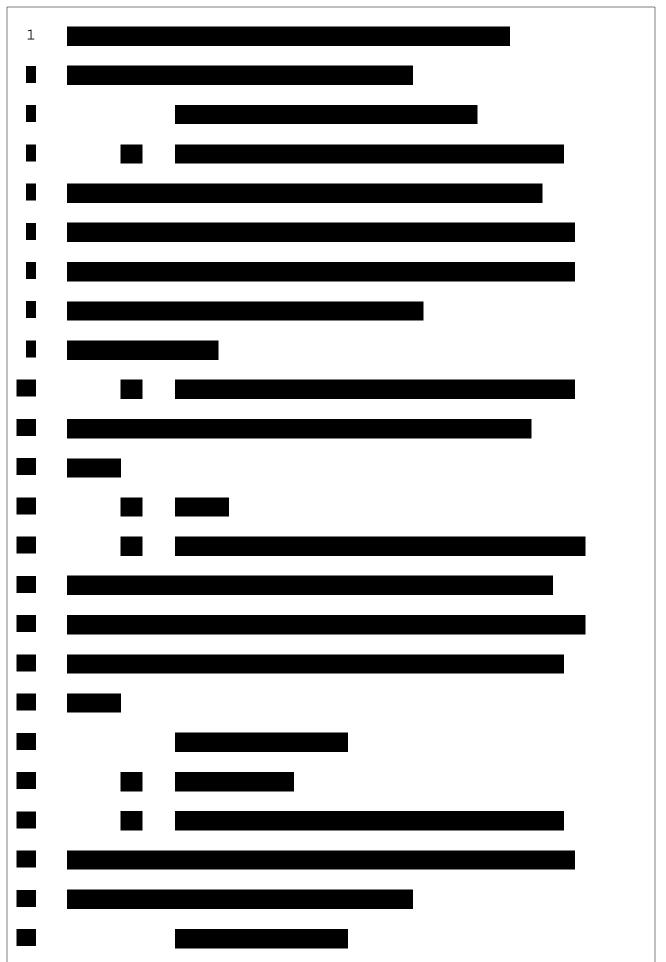


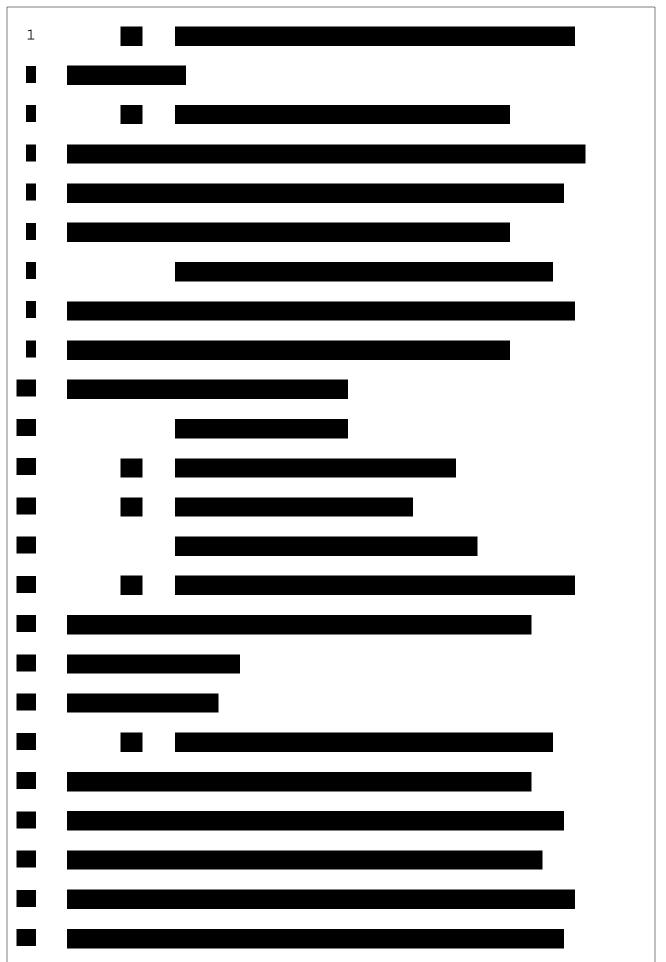


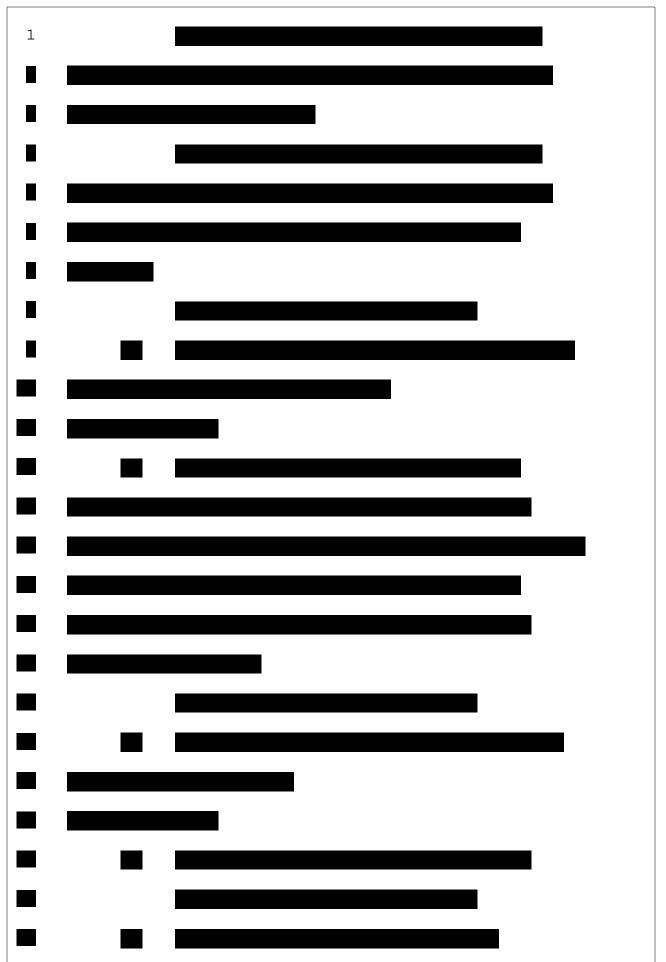


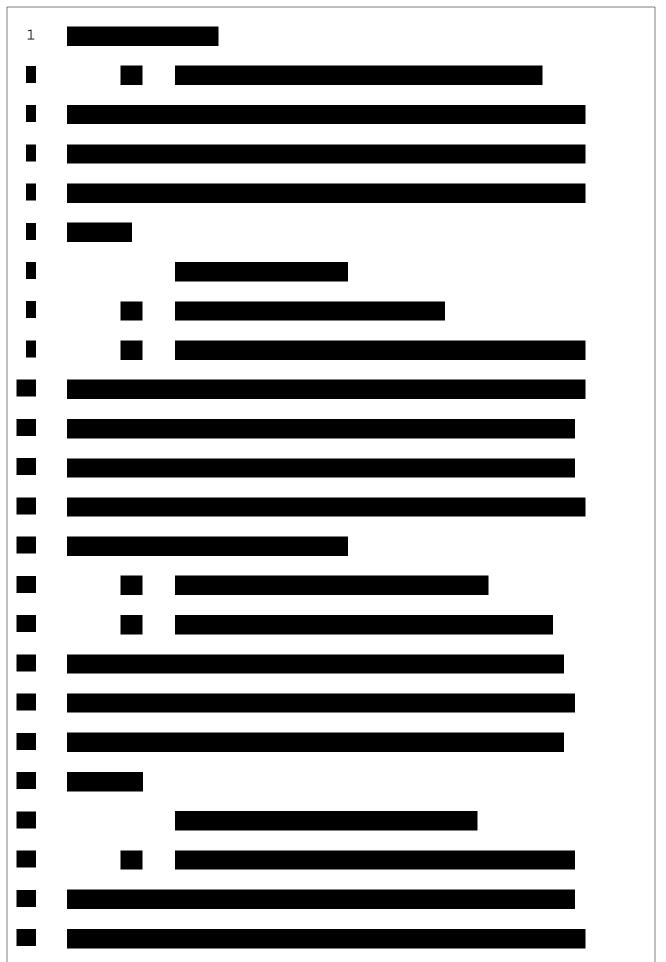


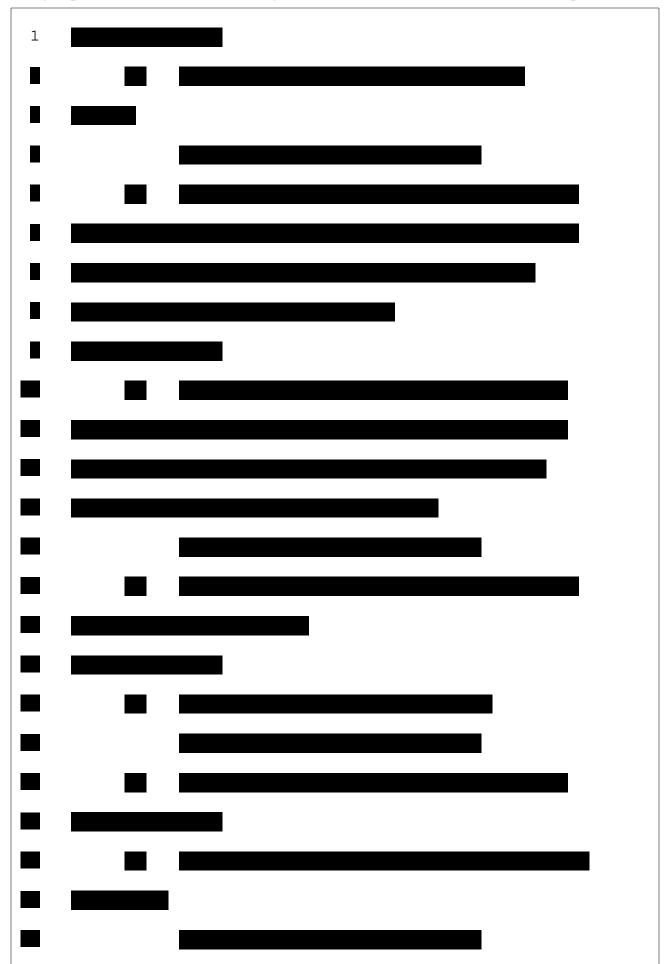


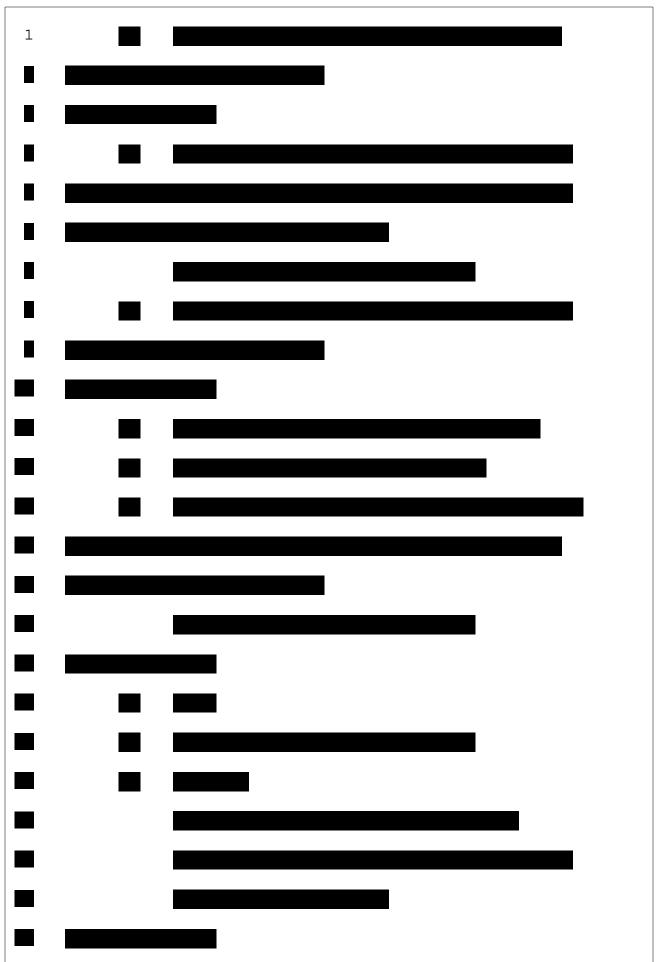




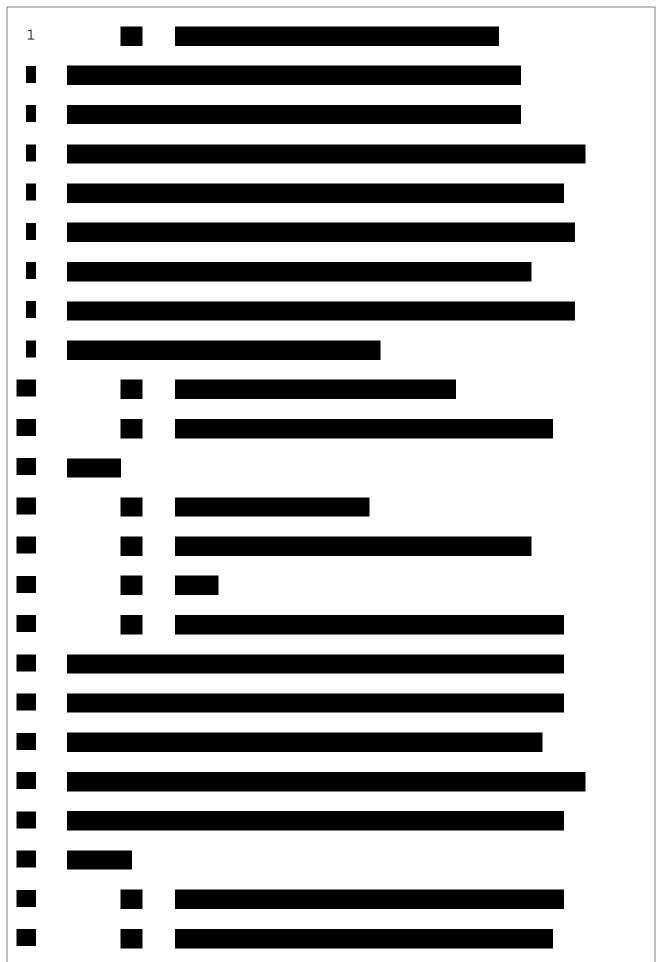


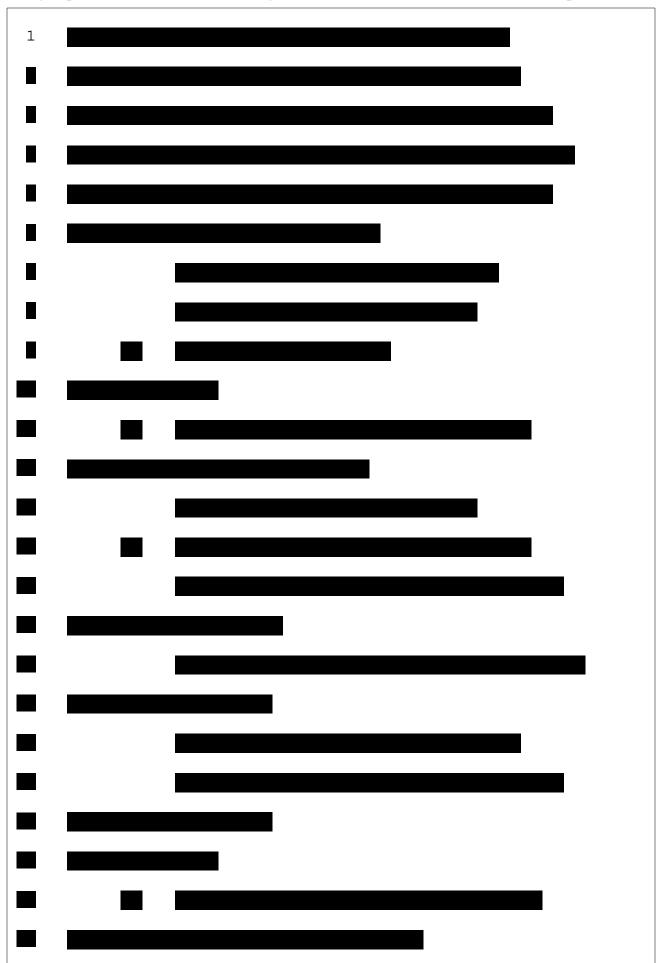


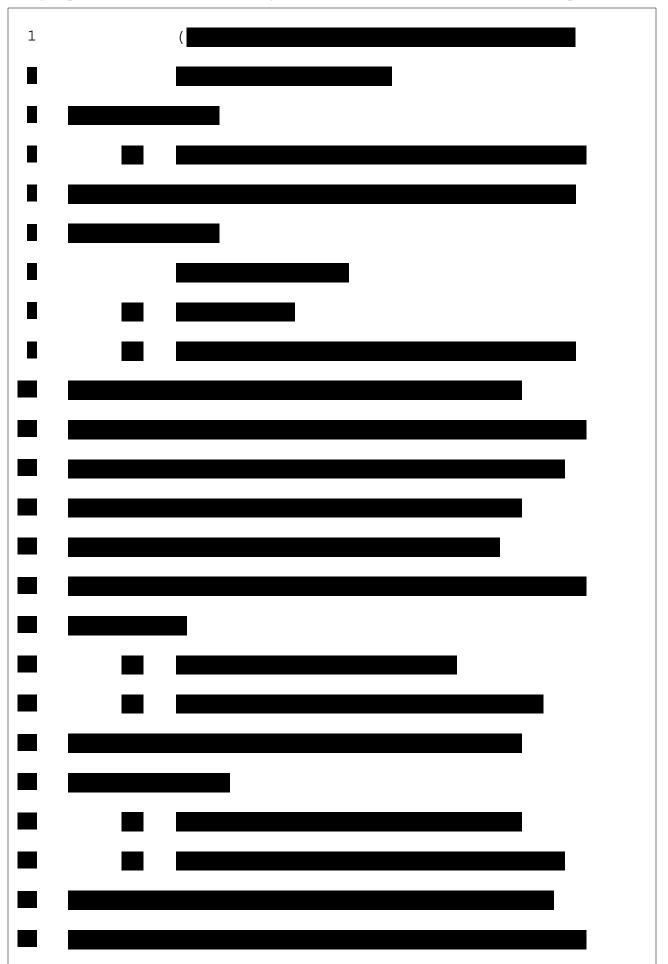




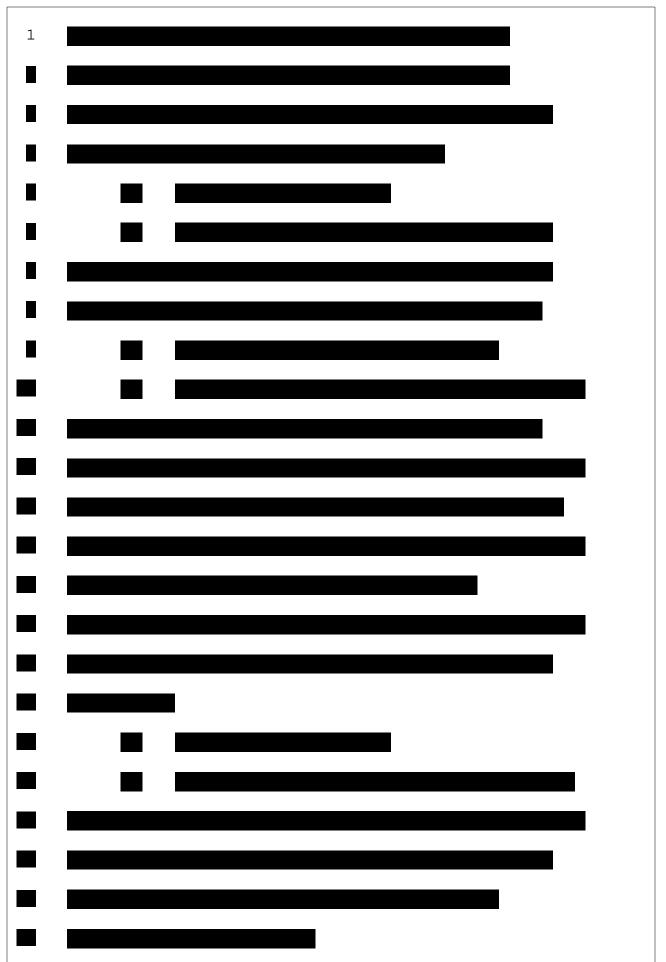
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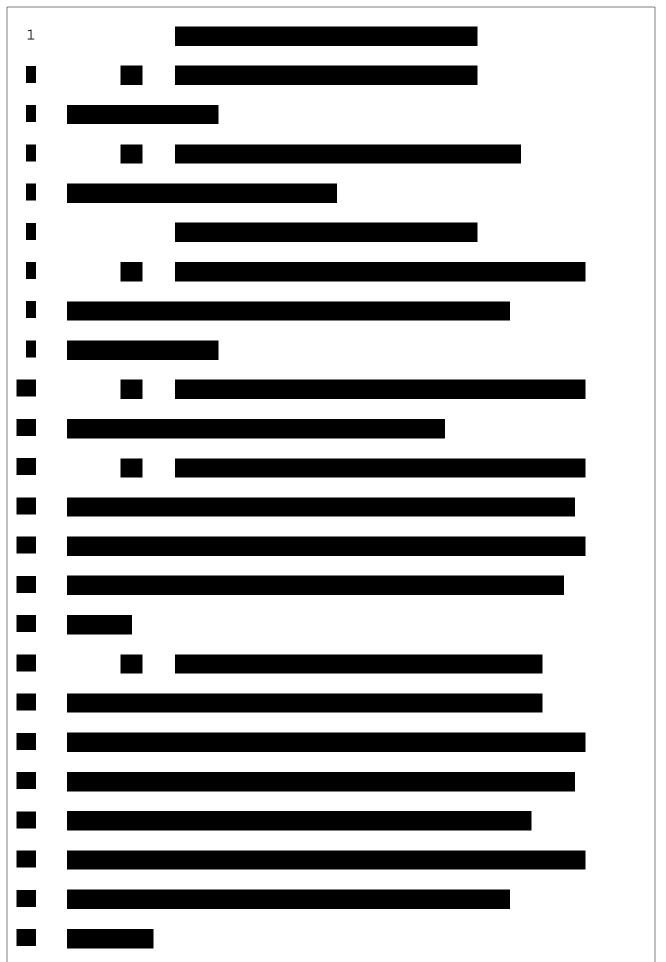


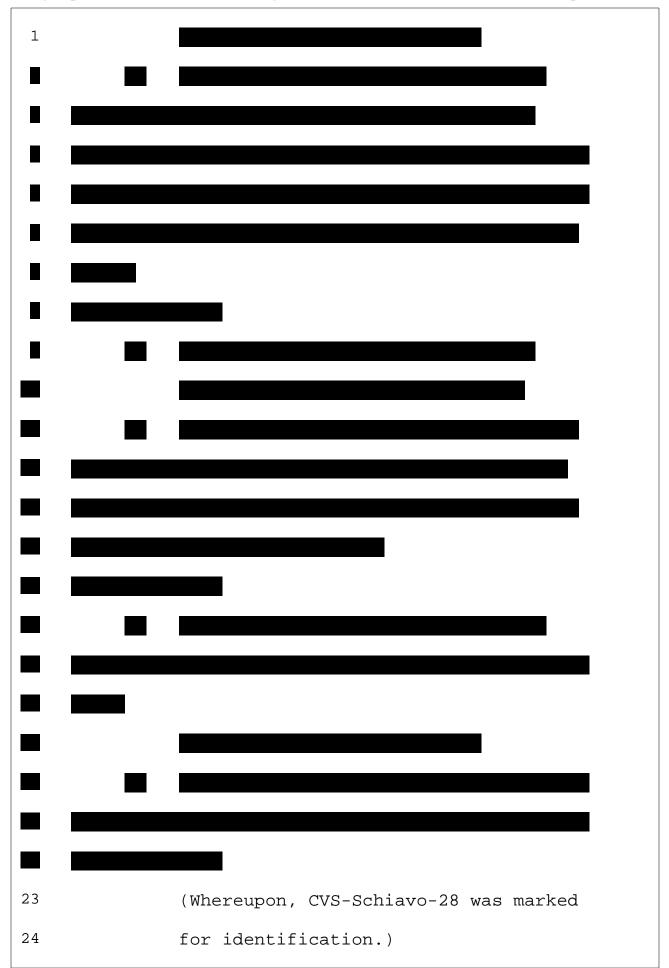




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- 1 BY MR. ELSNER:
- Q. If you go to the next document I've
- 3 shown you, we've marked it as Exhibit 28. This
- 4 is another e-mail to Tom Bourgue actually two
- 5 days before the e-mail we just looked at, "SOM
- 6 Risk Analysis." You write "Tom, I have made the
- 7 updates we discussed." And then you say there
- 8 may be one we want to change from medium to high
- 9 or both. And attached to that is an SOM risk
- analysis that you created, correct?
- 11 A. This is an SOM risk analysis that was
- 12 created. I don't recall creating the document,
- 13 but it's a risk analysis.
- Q. Okay. And did somebody else create
- 15 it?
- MS. MILLER: Object to form.
- 17 A. I don't recall if I was the one who
- 18 started this document, but I clearly made
- updates to it, based on the e-mail.
- 20 BY MR. ELSNER:
- 21 O. And there's lists of potential risks.
- 22 And the first one, the risk level there is
- listed as high, and you write "The SOM team is
- inconsistent in the way they perform their due

- diligence. Not each team member is aligned with
- the importance of reaching out to our stores in
- order to comply with the 'Know Your Customer'
- 4 expectation. This could also lead to
- 5 inconsistencies in the...process of what orders
- 6 should be released or blocked, " correct?
- 7 A. That --
- 8 MS. MILLER: Object to form.
- 9 A. That is what that potential risk says.
- 10 BY MR. ELSNER:
- 11 Q. And then it writes in the comments,
- "In May, the following is the percentage of
- 13 calls each team member made for flagged orders:
- 14 Annette, 19 percent." Then there's another
- individual at 15 percent, Noah at 13 percent,
- 16 Caitlin at 7 percent, and Shan at 4 percent.
- 17 Did I read that correctly?
- 18 A. That's what that says.
- 19 Q. Okay. So part of the due diligence
- 20 process at CVS at this time in June of 2014 --
- 21 and this is under the new system, right?
- MS. MILLER: Object to form.
- A. I don't recall if it's rolled out to
- 24 all distribution centers, but I believe at some

- 1 point this was just newly rolled out to some
- 2 distribution centers.
- 3 BY MR. ELSNER:
- Q. Well, these individual are the
- 5 suspicious order monitoring analysts working in
- 6 Rhode Island that you participated in hiring to
- 7 work on the new SOM system, right?
- 8 A. These are the SOM analysts who I
- 9 recall being part of the interview process.
- 10 Q. Okay. And less than 20 percent of
- 11 flagged orders were calls made to pharmacies,
- 12 correct?
- MS. MILLER: Object to form.
- 14 A. Based on what that's indicating there,
- 15 yes. I don't know how those percentages could
- 16 be pulled or how they were pulled, but that's
- what that's saying.
- 18 BY MR. ELSNER:
- 19 Q. Well, if you turn to the last page of
- your e-mail to Tom Bourque on the prior exhibit,
- 21 the very last page of the exhibit, there's a
- 22 chart there of the percentage of phone calls,
- 23 correct?
- MS. MILLER: Sorry, where are you,

- 1 Mike?
- MR. ELSNER: Prior exhibit, last page.
- MS. MILLER: That one -- oh, last
- 4 page.
- 5 A. It says "Team Member. Count of Case
- 6 Status." It has the percent of phone calls. I
- 7 don't see how that's calculated or how someone
- 8 would indicate from this the percent of phone
- 9 calls, though.
- 10 BY MR. ELSNER:
- 11 Q. Okay. If you go back to Exhibit 28,
- 12 the third item down for lack of -- that's listed
- as a high risk is "Lack of engagement by the
- 14 Management team." Did I read that correctly?
- 15 A. It says that under "Potential Risk."
- 16 Q. Okay. And you write "The team is not
- 17 receiving the support and guidance they need to
- 18 effectively do their jobs. Since Susan has
- 19 started she has not taken an active role in
- learning the position and finding the area of
- 21 opportunity within the team." Did I read that
- 22 correctly?
- 23 A. That's what the document says.
- Q. And you believe that that was a high

- 1 risk, correct?
- MS. MILLER: Object to form.
- A. It says the risk level is high. I
- 4 don't know how risk level was interpreted or
- 5 what the risk is referring to, but under "Risk
- 6 Level for that one it does say "High."
- 7 BY MR. ELSNER:
- Q. And also then the next one, another
- 9 high risk you identify is the "Lack of
- 10 communication from the SOM Management team to
- 11 the SOM Analysts, as well as a lack of foresight
- 12 by the Management team." Did I read that
- 13 correctly?
- MS. MILLER: Object to form.
- 15 A. That's what this document says.
- 16 BY MR. ELSNER:
- Q. And the next item, another high risk,
- 18 "Lack of resources to handle the rollout of all
- 19 distribution centers. This could freeze the
- 20 rollout of the remaining six distribution
- 21 centers or cause the team to not get to every
- 22 flagged order each day, "correct? Is that what
- 23 you wrote?
- MS. MILLER: Object to form.

- 1 A. That is what this form says. I don't
- 2 know if I wrote that. That's what the form
- 3 says.
- 4 BY MR. ELSNER:
- 5 Q. That's in the chart that you forwarded
- 6 to your boss, correct?
- 7 MS. MILLER: Object to form.
- 8 A. That appears to be in the chart that I
- 9 sent to Tom.
- 10 BY MR. ELSNER:
- 11 Q. Okay. And then in the middle under
- "Comments," it says "To date the team is
- 13 struggling to complete the amount of flagged
- daily orders. With six more distribution
- centers still to be rolled out, there has been
- 16 no plan communicated on how the team intends to
- 17 handle the increased volume." Did I read that
- 18 correctly?
- MS. MILLER: Object to form.
- 20 A. That's what it -- that's what it says.
- 21 BY MR. ELSNER:
- Q. And that was another high risk
- 23 identified, correct?
- MS. MILLER: Object to form.

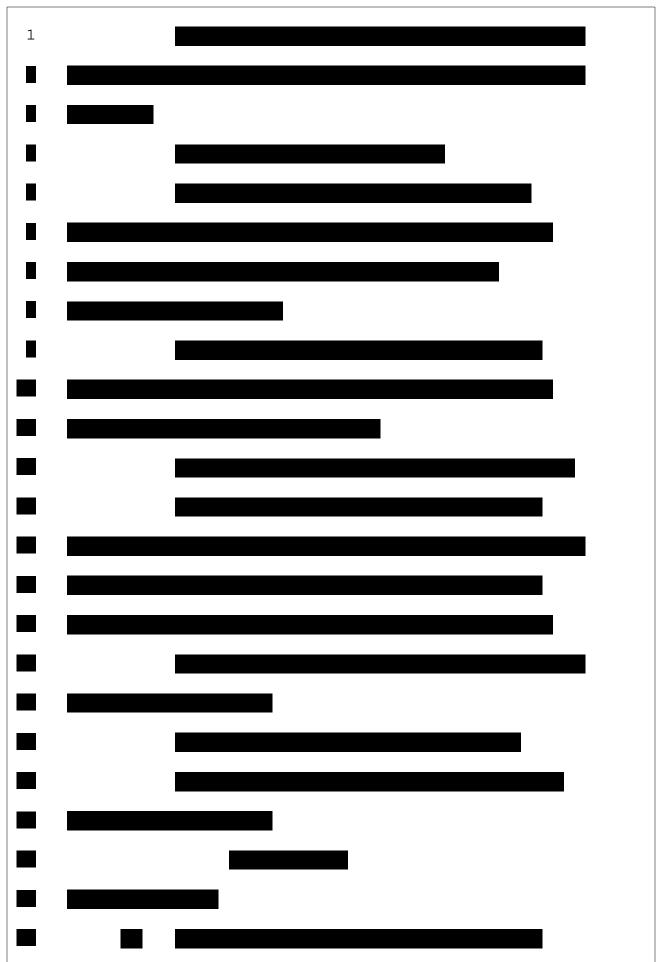
- 1 A. It's under "Risk Level. High."
- 2 Again, I don't know what thought process went
- 3 into putting these risk levels, and for that one
- 4 I'm not really sure exactly what the risk would
- 5 be.
- 6 BY MR. ELSNER:
- 7 Q. Go to the next one. Another high risk
- 8 level, "Today we are unclear how well the system
- 9 is identifying orders that should actually be
- 10 flagged (false positive rate and tests that need
- 11 to be more stringent?) " Did I read that
- 12 correctly?
- 13 A. That's what it says.
- 14 Q. And --
- MS. MILLER: I just -- I understand
- 16 we're at seven hours. Are we past seven hours?
- 17 THE VIDEOGRAPHER: We're just at seven
- 18 hours now.
- MS. MILLER: Okay. So after this
- 20 question.
- 21 MR. ELSNER: I'll probably ask two
- questions here, three.
- MS. MILLER: Okay.
- 24 BY MR. ELSNER:

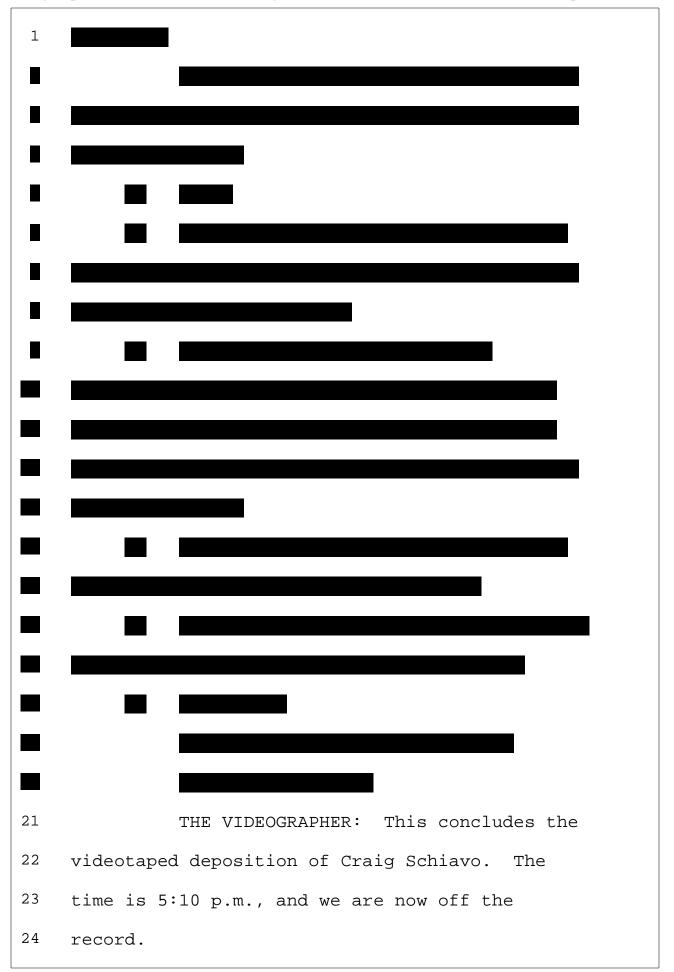
- 1 Q. "The SOM Algorithm" in the next one
- 2 "is not flagging the drugs which are diverted
- 3 the most at our retail locations at a high
- 4 enough rate." And that's identified as a
- 5 medium/high risk, correct?
- 6 MS. MILLER: Objection to form.
- 7 A. High/medium is under the risk level
- 8 column.
- 9 BY MR. ELSNER:
- 10 Q. Okay. And so --
- MS. MILLER: Mike, you're out of time.
- 12 So you can ask --
- MR. ELSNER: I'm just going to finish
- 14 this. I've got another question to ask, and
- 15 I'll just finish with this document.
- MS. MILLER: This is the last
- 17 question. This is the last question.
- 18 BY MR. ELSNER:
- Q. As of June of 2014, you were still
- 20 finding high risk levels even with the new
- 21 rollout of the new system with respect to
- 22 staffing issues, resources to handle the review
- of orders, and consistent performance of due
- 24 diligence reviews, correct?

- 1 MS. MILLER: Objection to form. And
- 2 I'm going to instruct him not to answer. We're
- 3 out of time.
- 4 MR. ELSNER: No, I'll get an answer to
- 5 that question.
- 6 MS. MILLER: We're out of time.
- 7 MR. ELSNER: No.
- 8 BY MR. ELSNER:
- 9 Q. Answer the question.
- MS. MILLER: It's seven hours. It's
- 11 up.
- MR. ELSNER: It's a summary question,
- and I'm going to ask for more time from the
- 14 court in any event.
- MS. MILLER: Objection.
- 16 BY MR. ELSNER:
- 17 Q. Please answer the question.
- MS. MILLER: Objection.
- I instruct you not to answer.
- MR. ELSNER: You can't instruct him
- 21 not to answer.
- MS. MILLER: You're out of time.
- MR. ELSNER: You said one more
- question, I asked him the question, now you

- won't let him answer the question. You wanted
- 2 to see what the question was first? You said
- one more question, and I asked him one more
- 4 question.
- 5 MS. MILLER: But now I've realized --
- 6 MR. ELSNER: It's a good question?
- 7 MS. MILLER: -- it's not fair for
- 8 you -- no, it's not fair for you to continue
- 9 after seven hours, and I think we should cut it
- 10 off.
- MR. ELSNER: No, you said I could get
- one more question, and that's what I've done.
- 13 Let him answer the question.
- MS. MILLER: I'm instructing him not
- 15 to answer. We're done. We're out of time.
- MR. ELSNER: I think you should answer
- 17 the question.
- I'm going to go to the court and ask
- 19 for more time. I think this has been
- 20 ridiculous. I think he hasn't admitted at any
- 21 point offering any document, remembering any
- 22 documents. You had three days prepping him, and
- 23 he's giving us nothing that he could potentially
- 24 remember at all at CVS. And you told me I could

- 1 ask one more question, and now you won't let him
- 2 answer the question.
- MS. MILLER: Okay. You may answer the
- 4 question.
- 5 MR. ELSNER: Can you go back to what
- 6 the question is so I can read it?
- 7 MS. MILLER: But I object to it, and I
- 8 don't think it should be part of the record
- 9 given that you're out of time.
- 10 BY MR. ELSNER:
- 11 Q. As of June of 2014, you were still
- 12 finding high risk levels even with the new
- 13 rollout of the new SOM monitoring system with
- 14 respect to staffing issues, resources to handle
- 15 the review of orders, and consistent performance
- of due diligence reviews, correct?
- 17 A. As I stated, I don't know how these
- 18 risk levels were determined, and at this point
- in the process I had no concerns or no reason to
- 20 believe -- in fact, I was very confident that we
- 21 were meeting our obligation to have a suspicious
- 22 order monitoring system.
- 23





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(Whereupon, the deposition was
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                 concluded.)
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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
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 3
               I, MAUREEN O'CONNOR POLLARD, RMR, CLR,
    and Commissioner in the State of Rhode Island
 4
 5
    and Providence Plantations, do certify that on
    the 17th day of January, 2019, at 8:06 o'clock,
 6
 7
    the person above-named was duly sworn to testify
 8
    to the truth of their knowledge, and examined,
 9
    and such examination reduced to typewriting
10
    under my direction, and is a true record of the
11
    testimony given by the witness.
12
               I further certify that I am neither
13
    attorney, related or employed by any of the
14
    parties to this action, and that I am not a
15
    relative or employee of any attorney employed by
16
    the parties hereto, or financially interested in
17
    the action.
               In witness whereof, I have hereunto
18
19
    set my hand this 20th day of January, 2019.
20
21
22
               COMMISSIONER
23
               My Commission Expires April 30, 2020
24
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1
               INSTRUCTIONS TO WITNESS
 2
 3
                    Please read your deposition over
    carefully and make any necessary corrections.
 4
 5
    You should state the reason in the appropriate
    space on the errata sheet for any corrections
 6
 7
    that are made.
 8
                    After doing so, please sign the
 9
    errata sheet and date it. It will be attached
10
    to your deposition.
11
                    It is imperative that you return
12
    the original errata sheet to the deposing
    attorney within thirty (30) days of receipt of
13
14
    the deposition transcript by you. If you fail
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    to do so, the deposition transcript may be
16
    deemed to be accurate and may be used in court.
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		ERRATA
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	ACKNOWLEDGMENT OF DEPONENT					
	I,, do					
	Hereby certify that I have read the foregoing					
:	pages, and that the same is a correct					
	transcription of the answers given by me to the					
1	questions therein propounded, except for the					
	corrections or changes in form or substance, if					
	any, noted in the attached Errata Sheet.					
	<del></del>					
	WITNESS NAME DATE					
:						
	Subscribed and sworn					
	To before me this					
	, day of, 20					
	My commission expires:					
	Note the same Deals I do					
	Notary Public					
:						

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